

reconsideration. In a merit decision dated March 7, 2013, OWCP denied modification of its January 31, 2012 decision.

In a letter dated August 27, 2013, received by OWCP on September 10, 2013, appellant requested reconsideration.

By decision dated December 10, 2013, OWCP denied appellant's request for reconsideration after finding that it was not timely filed within one year of the August 16, 2012 decision.

The Board has duly considered the matter and finds that appellant's request for reconsideration was timely. Sections 10.607(a) of the implementing regulations provide that an application for review must be received within one year of the date of OWCP's decision for which review is sought.² The Board notes that the last merit decision was dated March 7, 2013 and appellant's request for reconsideration was received September 10, 2013. As this request was received within one year of the last merit decision, it was timely filed. The case will be remanded for OWCP to apply the standard for reviewing timely requests for reconsideration.³ The clear evidence of error standard utilized by OWCP in its December 10, 2013 decision is appropriate only for untimely reconsideration requests.⁴ After such further development as OWCP deems necessary, it should issue an appropriate decision on appellant's claim under section 8128(a).

² 20 C.F.R. § 10.607(a).

³ *See id.* at § 10.606(b)(3).

⁴ Section 10.607(b) provides that OWCP will consider an untimely application for reconsideration only if it demonstrates clear evidence of error by OWCP in its most recent merit decision. The reconsideration request must establish that OWCP's decision was, on its face, erroneous. 20 C.F.R. § 10.607(b).

IT IS HEREBY ORDERED THAT the December 10, 2013 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this order of the Board.

Issued: July 29, 2014
Washington, DC

Patricia Howard Fitzgerald, Acting Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board