

**United States Department of Labor
Employees' Compensation Appeals Board**

A.A., Appellant

and

**DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL
CENTER, Butler, PA, Employer**

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**Docket No. 14-1081
Issued: October 1, 2014**

Appearances:
Douglas Sughrue, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:
CHRISTOPHER J. GODFREY, Chief Judge
COLLEEN DUFFY KIKO, Judge
PATRICIA HOWARD FITZGERALD, Judge

On April 9, 2014 appellant, through her attorney, filed a timely appeal from an October 11, 2013 decision of the Office of Workers' Compensation Programs (OWCP). The Board assigned Docket No. 14-1081.

In its October 11, 2013 decision, OWCP refused to reopen appellant's case for further review of the merits of her claim on the grounds that her request for reconsideration was untimely filed and failed to demonstrate clear evidence of error. It stated that the request for reconsideration of the August 20, 2012 OWCP decision denying her occupational exposure claim was untimely as it was received on August 20, 2013 and not by August 19, 2013.

The Board finds that OWCP improperly determined in this case that appellant failed to file a timely request for reconsideration. In computing the time for requesting reconsideration, the date of the event from which the designated period of time begins to run shall not be included when computing the time period. The last day of the period so computed shall be included unless it is a Saturday, a Sunday or a legal holiday.¹ The time for requesting reconsideration of OWCP's

¹ *Angel M. Lebron, Jr.*, 51 ECAB 488 (2000); *John B. Montoya*, 43, ECAB 1148 (1992).

August 20, 2012 decision began to run on August 21, 2012 and thus would have expired on August 20, 2013.

Pursuant to OWCP regulations at 20 C.F.R. § 10.607(a) an application for reconsideration must be received by OWCP within one year of the date of the OWCP decision for which review is sought.

As appellant's request for reconsideration was received on that date, August 20, 2013, it was timely. The case will be remanded to OWCP for application of the standard for reviewing timely requests for reconsideration.

Accordingly, the Board, having duly considered the matter, concludes that, in its October 11, 2013 decision, OWCP improperly determined that appellant filed an untimely request for reconsideration of its August 20, 2012 decision. The October 11, 2013 decision of OWCP must be set aside and the case remanded to OWCP to further review of appellant's reconsideration request under the standards for timely reconsideration requests, to be followed by the issuance of an appropriate decision following any necessary further development in accordance with its regulations.²

IT IS HEREBY ORDERED THAT the October 11, 2013 decision of the Office of Workers' Compensation Programs is set aside and the case remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: October 1, 2014
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

² See *Debra McDavid*, 57 ECAB 149 (2005).