

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

Y.R., Appellant)
and) Docket No. 15-123
U.S. POSTAL SERVICE, POST OFFICE,) Issued: May 1, 2015
Bedford Park, IL, Employer)

)

Appearances:

Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:

CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
COLLEEN DUFFY KIKO, Judge

On October 15, 2014 appellant timely filed an appeal from an April 18, 2014 decision of the Office of Workers' Compensation Programs (OWCP).¹ In this decision, OWCP denied her claim on the grounds that her request for reconsideration was untimely filed and did not show clear evidence of error in OWCP's prior merit decision dated May 25, 2010. The Board assigned Docket No. 15-123.

In a July 25, 2008 decision, OWCP reduced appellant's entitlement to compensation to zero based on its determination that her actual wages as a modified city carrier fairly and reasonably represented her wage-earning capacity.² In a May 25, 2010 decision, it denied her claim for recurrence of disability beginning January 20, 2010. By decision dated January 28, 2011, OWCP reversed its July 25, 2008 wage-earning capacity determination on the grounds that the modified city carrier position constituted odd-lot or make shift work. It advised appellant

¹ Under the Board's *Rules of Procedure*, an appeal must be filed within 180 days from the date of issuance of an OWCP decision. An appeal is considered filed upon receipt by the Clerk of the Appellate Boards. *See* 20 C.F.R. § 501.3(e)-(f). One hundred and eighty days from April 18, 2014, the date of OWCP's last decision, was October 15, 2014. Since using October 22, 2014, the date the appeal was received by the Clerk of the Appellate Boards would result in the loss of appeal rights, the date of the postmark is considered the date of filing. The date of the U.S. Postal Service postmark is October 15, 2014, rendering the appeal timely filed. *See* 20 C.F.R. § 501.3(f)(1).

² In May 1998, OWCP had accepted that appellant, then a 32-year-old regional mail carrier, sustained bilateral carpal tunnel syndrome due to the performance of her work duties over time.

that, consequently, claims for compensation beginning September 18, 2009 might be payable and asked her to submit CA-7 forms for any claimed periods of compensation. In CA-7 forms filed on August 26 and 30, 2011, appellant claimed entitlement to wage-loss compensation covering the period February 26, 2010 to February 4, 2011.

In a March 10, 2014 letter, appellant referenced a February 10, 2014 informational letter in which OWCP indicated that her claim for compensation beginning February 26, 2010 was governed by its May 25, 2010 decision denying a claim for recurrence of disability beginning January 20, 2010. In its April 18, 2014 decision, OWCP interpreted appellant's March 10, 2014 letter as an untimely request for reconsideration of its May 25, 2010 decision. It then determined that appellant had not shown clear evidence of error in the May 25, 2010 decision.

The Board finds that OWCP misinterpreted appellant's March 10, 2014 letter as an untimely request for reconsideration of its May 25, 2010 decision. Appellant's March 10, 2014 letter constituted her attempt to have OWCP address her claim for entitlement to wage-loss compensation for the period February 26, 2010 to February 4, 2011. She filed this claim after OWCP reversed its July 25, 2008 wage-earning capacity determination and advised her that she should file CA-7 forms if she wished to claim wage-loss compensation for any period beginning September 18, 2009.

Therefore, appellant has a claim for wage-loss compensation for the period February 26, 2010 to February 4, 2011 which has not yet been properly addressed by OWCP. The case is remanded to OWCP for consideration of this claim, to be followed by the issuance of an appropriate merit decision on the matter.

IT IS HEREBY ORDERED THAT the April 18, 2014 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: May 1, 2015
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board