

Appellant subsequently requested reconsideration of the February 21, 2014 OWCP decision on February 23, 2015 and submitted additional evidence. In a March 18, 2015 decision, OWCP denied her request for reconsideration on the grounds that it was not timely filed and failed to establish clear evidence of error.

The Board finds that appellant's reconsideration request was timely. Section 10.607(a) of the implementing regulations provides that an application for reconsideration must be received within one year of the date of OWCP decision for which review is sought.¹ In this case, the last OWCP merit decision was dated February 21, 2014 and one year elapsed on February 21, 2015. Appellant's reconsideration request was received by OWCP on February 23, 2015. In computing the time for requesting reconsideration, however, the last day of the period shall be included unless it is a Saturday, a Sunday, or a legal holiday.² As February 21, 2015 was a Saturday, appellant had until February 23, 2015 to request reconsideration. Thus, her request was timely received by OWCP.

Because appellant filed a timely reconsideration request, OWCP should have reviewed her request under the standard for a timely request,³ as opposed to the standard for untimely requests.⁴ The clear evidence of error standard utilized by OWCP in its March 18, 2015 decision is appropriate only for untimely reconsideration requests. The Board will set aside OWCP's March 18, 2015 decision and remand the case for an appropriate final decision on appellant's timely request for reconsideration.

¹ 20 C.F.R. § 10.607(a).

² *Debra McDavid*, 57 ECAB 149 (2005); *J.J.*, Docket No. 14-746 (October 17, 2014).

³ 20 C.F.R. § 10.606(b)(3).

⁴ Section 10.607(b) states 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 March 18, 2015 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded to OWCP for further proceedings consistent with this order.

Issued: November 16, 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