

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

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**S.H., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Bellmawr, NJ, Employer**

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**Docket No. 15-1693  
Issued: April 1, 2016**

*Appearances:*  
*Thomas R. Uliase, Esq., for the appellant*  
*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 August 5, 2015 appellant, through counsel, filed a timely application for review of a May 4, 2015 nonmerit decision of the Office of Workers' Compensation Programs (OWCP), which denied reconsideration.

OWCP accepted that appellant sustained a syncopal episode on December 13, 2012 while in the performance of duty. On February 4, 2014 appellant, through counsel, requested reconsideration and an expansion of her accepted conditions to include cervical radiculopathy. By decision dated July 31, 2014, OWCP denied appellant's claim. On September 23, 2014 OWCP received appellant's reconsideration request dated September 18, 2014 and on May 4, 2015 denied the reconsideration request without reviewing the merits of her claim.

The Board finds that appellant is entitled to a merit review of her case. When a reconsideration decision is delayed beyond 90 days, and the delay jeopardizes the claimant's right to review of the merits of the case by the Board, OWCP should conduct a merit review.<sup>1</sup> Appellant had 180 days, or until January 27, 2015, to appeal OWCP's July 31, 2014 merit

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<sup>1</sup> See *S.P.*, Docket No. 14-1309 (issued October 21, 2009); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.7.a (October 2011).

decision to the Board.<sup>2</sup> OWCP received her reconsideration request within 54 days on September 23, 2014, but did not issue its denial until May 4, 2015, well after her right to appeal the merit decision to the Board had expired. Thus, its delay jeopardized appellant's right to appeal the merits of her case.

Accordingly, the Board will reverse OWCP's May 4, 2015 decision and remand the case for a merit review and an appropriate final decision on appellant's claim for compensation.<sup>3</sup>

**IT IS HEREBY ORDERED THAT** the May 4, 2015 decision of the Office of Workers' Compensation Programs is reversed and the case remanded for further action.

Issued: April 1, 2016  
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

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<sup>2</sup> 20 C.F.R. § 501.3(e).

<sup>3</sup> See *Joseph L. Cabral*, 44 ECAB 152 (1992) (remanding the case for a merit decision where OWCP delayed more than 10 months in denying reconsideration).