



By letter dated May 2, 2016, received by OWCP on the same date, appellant, through counsel, requested reconsideration of OWCP's April 30, 2015 decision. By decision dated May 9, 2016, OWCP found that the request was untimely filed and failed to demonstrate clear evidence of error.

The Board has duly considered the matter and finds that appellant's request for reconsideration was timely. Section 10.607(a) of the implementing regulations provide that an application for reconsideration must be received within one year of the date of OWCP's decision for which review is sought.<sup>2</sup> In this case, appellant sought review of the April 30, 2015 decision and her request for reconsideration was received on Monday, May 2, 2016. In computing the time for requesting reconsideration, the date of the event from which the designated time period begins to run shall not be included when computing the time period. However, the last day of the period shall be included unless it is a Saturday, a Sunday or a legal holiday.<sup>3</sup> Thus, the time for requesting reconsideration of OWCP's April 30, 2015 decision began to run on May 1, 2015, and ended on Monday, May 2, 2016, because April 30, 2016 was a Saturday and May 1, 2016 was a Sunday. As such, the reconsideration request was timely filed, as it was received on the first business day following April 30, 2016.

Because appellant filed a timely reconsideration request, the case will be remanded to OWCP for application of the standard for reviewing timely requests for reconsideration.<sup>4</sup> The clear evidence of error standard utilized by OWCP in its May 9, 2016 decision is appropriate only for untimely reconsideration requests. After such further development as OWCP deems necessary, it should issue an appropriate decision.

---

<sup>2</sup> *Id.* at § 10.607(a).

<sup>3</sup> *Debra McDavid*, 57 ECAB 149 (2005); *John B. Montoya*, 43 ECAB 1148 (1992).

<sup>4</sup> *See* 20 C.F.R. § 10.606(b).

**IT IS HEREBY ORDERED THAT** the May 9, 2016 decision is set aside and the case remanded for further action consistent with this order.

Issued: February 15, 2017  
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