

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

C.M., Appellant)	
)	
and)	Docket No. 16-1616
)	Issued: July 14, 2017
INDEPENDENT AGENCIES, U.S. EQUAL)	
EMPLOYMENT OPPORTUNITY)	
COMMISSION, Washington, DC, 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 August 8, 2016 appellant filed a timely application for review from a March 17, 2016 nonmerit decision of the Office of Workers' Compensation Programs (OWCP) denying her request for reconsideration as the request was untimely filed and failed to demonstrate clear evidence of error. The Clerk of the Appellate Boards docketed the appeal as No. 16-1616.

The Board notes that on March 11, 2015 an OWCP hearing representative affirmed a March 10, 2014 OWCP decision denying appellant's claim for an emotional condition because she had not established a compensable factor of employment. On March 10, 2016 OWCP received appellant's reconsideration request.¹

The Board has considered the matter and finds that the March 10, 2016 request constituted a timely request for reconsideration. OWCP regulations at 20 C.F.R. § 10.607(a), provide that an "application for reconsideration must be received within one year of the date of the OWCP decision for which review is sought." In this case, while appellant articulated that she was requesting reconsideration of the March 10, 2014 decision, the most recent merit decision on

¹ By letter dated March 11, 2016, appellant corrected grammatical and formatting errors in her March 10, 2016 request for reconsideration. She also added an e-mail address of the employing establishment's representative to show the method of service to him.

the same issue was dated March 11, 2015. Appellant's request for reconsideration was received by OWCP on March 10, 2016. Because appellant's request for reconsideration was received on March 10, 2016, the Board finds that it was timely filed.

Because appellant filed a timely reconsideration request, OWCP should have reviewed her request under the standard for a timely request.² The clear evidence of error standard utilized by OWCP in its March 17, 2016 decision is appropriate only for untimely reconsideration requests.³ The Board will set aside OWCP's March 17, 2016 decision and remand the case for an appropriate final decision on appellant's timely request for reconsideration.

IT IS HEREBY ORDERED THAT the March 17, 2016 decision of the Office of Workers' Compensation Programs is set aside and the case remanded for further action consistent with this order of the Board.

Issued: July 14, 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

² See 20 C.F.R. § 10.606(b)(3).

³ *Id.* at § 10.607(b).