



continuing.<sup>2</sup> OWCP found that the medical evidence submitted was insufficient to support disability due to the accepted December 17, 2014 work-related injury.<sup>3</sup>

On January 12, 2016 appellant requested a review of the written record by OWCP's Branch of Hearings and Review. She submitted an appeal request form for a "December 17, 2015" decision.

In a separate letter dated January 6, 2016 and received by OWCP on January 13, 2016, appellant indicated that she was "appealing the decision" of entitlement to COP and wage-loss compensation claimed for the period commencing March 27, 2015. She explained that although she was not totally disabled, the employing establishment could not accommodate her physician's March 17, 2015 recommendation of two hours of limited/light-duty work.

By decision dated June 21, 2016, OWCP's hearing representative affirmed the December 14, 2015 decision denying COP. She acknowledged receipt of appellant's January 6, 2016 correspondence "describing her disagreement with [OWCP's] decision," but she did not address appellant's claim for wage-loss compensation commencing March 17, 2015.

Appellant timely requested reconsideration of the hearing representative's June 21, 2016 decision denying COP. By September 28, 2016 merit decision, OWCP denied modification of its June 21, 2016 decision. It explained that appellant was not entitled to COP because she had not filed her claim within 30 days of her December 17, 2014 traumatic injury.

On April 7, 2017 OWCP received appellant's March 29, 2017 request for reconsideration of the September 28, 2016 decision. OWCP also received a separate letter from appellant dated March 29, 2017. Appellant explained that she wanted to exercise her right to appeal the December 14, 2015 decision "to allow payment for loss (sic) wages for the period March 1, 2015 to March 30, 2016, prior to surgery...."

On June 5, 2017 OWCP sought clarification regarding which decision(s) appellant was seeking reconsideration. It noted that both COP and wage-loss compensation had initially been denied by decisions dated December 14, 2015. In a June 12, 2017 letter, appellant advised that she was exercising her appeal rights with respect to the December 14, 2015 decision denying wage-loss compensation beginning March 1, 2015.

By decision dated August 7, 2017, OWCP denied appellant's March 29, 2017 request for reconsideration because it was untimely filed and failed to demonstrate clear evidence of error with respect to the December 14, 2015 decision denying wage-loss compensation.

The Board has considered the matter and finds that appellant's January 6, 2016 correspondence, which OWCP received on January 13, 2016, constituted a timely request for reconsideration of the December 14, 2015 merit decision denying wage-loss compensation.

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<sup>2</sup> Although the December 14, 2015 decision noted a disability commencement date of March 27, 2015, appellant's June 23, 2015 claim for compensation (Form CA-7) noted that she last worked on March 16, 2015, and was seeking compensation beginning March 17, 2015.

<sup>3</sup> At the time, OWCP had not yet accepted abdominal muscle strain and unilateral inguinal hernia.

OWCP's regulations at 20 C.F.R. § 10.607(a), provides that an "application for reconsideration must be received within one year of the date of OWCP[s] decision for which review is sought." In this case, appellant articulated that she was "appealing the decision" denying wage-loss compensation "beginning [March 27, 2015] and continuing...." OWCP received appellant's January 6, 2016 request for reconsideration within one year of its December 14, 2015 merit decision denying wage-loss compensation. Therefore it was timely filed.

As such OWCP should have reviewed her request under the standard for timely requests for reconsideration.<sup>4</sup> The clear evidence of error standard utilized by OWCP in its August 7, 2017 decision is appropriate only for untimely reconsideration requests.<sup>5</sup> The Board will set aside OWCP's August 7, 2017 decision and remand the case for an appropriate final decision on appellant's timely request for reconsideration.

**IT IS HEREBY ORDERED THAT** the August 7, 2017 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further action consistent with this order of the Board.

Issued: July 19, 2018  
Washington, DC

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

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

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>4</sup> See 20 C.F.R. § 10.606(b)(3).

<sup>5</sup> *Id.* § 10.607(b).