

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

R.C., Appellant	)	
	)	
and	)	<b>Docket No. 18-0311</b>
	)	<b>Issued: June 11, 2018</b>
<b>DEPARTMENT OF JUSTICE, BUREAU OF PRISONS, Danbury, CT, Employer</b>	)	
	)	

*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  
ALEC J. KOROMILAS, Alternate Judge

On November 28, 2017 appellant filed a timely appeal from a June 30, 2017 decision of the Office of Workers' Compensation Programs (OWCP), which found that her reconsideration request was untimely filed and failed to demonstrate clear evidence of error. The appeal was docketed as 18-0311.

OWCP initially accepted appellant's claim on March 26, 2008 for neck sprain. It denied appellant's request for authorization for a "diagnostic laryngoscopy, Fees Wilaryngeal sense test, interpret fee/laryngeal test, acid reflux, and dysphagia" on November 20, 2015. Appellant requested reconsideration on April 26, 2016. In a June 10, 2016 decision, OWCP denied modification of its prior decision. On June 12, 2017 appellant again requested reconsideration. In its June 30, 2017 decision, OWCP found that the reconsideration 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 provides that an application for reconsideration must be received within one year of the date of OWCP's decision for which review is sought.<sup>1</sup> In computing the time for requesting reconsideration, the one-year

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<sup>1</sup> 20 C.F.R. § 10.607(a).

period begins on the next day after the date of the original contested decision.<sup>2</sup> 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 reconsideration request was timely filed, as June 10, 2017 was a Saturday and the request was received by OWCP on June 12, 2017, which was a Monday and within one year of the last merit decision. 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 June 30, 2017 decision is appropriate only for untimely reconsideration requests. After such further development as OWCP deems necessary, it should issue an appropriate decision to protect appellant's appeal rights.

**IT IS HEREBY ORDERED THAT** June 30, 2017 decision of Office of Workers' Compensation Programs is set aside and the case is remanded for further action consistent with this order of the Board

Issued: June 11, 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>2</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4 (February 2016).

<sup>3</sup> *Id.* See also *Order Remanding Case, N.L.* Docket No. 17-1110 (issued September 6, 2017); *Debra McDavid*, 57 ECAB 149 (2005); *John B. Montoya*, 43 ECAB 1148 (1992).

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