

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

E.B., Appellant)	
)	
and)	Docket No. 18-1742
)	Issued: August 15, 2019
U.S. POSTAL SERVICE, POST OFFICE,)	
Macon, GA, 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
JANICE B. ASKIN, Judge

On September 20, 2018 appellant filed a timely appeal from an August 29, 2018 decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 18-1742.

This case has previously been before the Board.¹ In an October 17, 2017 decision, the Board affirmed an August 26, 2016 OWCP decision denying appellant's claim for total disability due to her accepted February 13, 2014 work injury for the period May 31 to June 22, 2016.

On July 23, 2018 OWCP received appellant's request for reconsideration. By decision dated August 29, 2018, it denied her reconsideration request finding that it was untimely filed and failed to demonstrate clear evidence of error.

The Board finds that appellant's reconsideration request received on July 23, 2018 was a timely request for reconsideration. OWCP's regulations and procedures establish a one-year time limit for requesting reconsideration, which begins on the date of the original OWCP merit

¹ Docket No. 16-1838 (issued October 17, 2017); *Order Denying Petition for Reconsideration* (issued April 9, 2018). At the time of the Board's decision in this case appellant also had appeals pending under Docket Nos. 17-0875 and 17-1160.

decision.² A right to reconsideration within one year also accompanies any subsequent merit decision on the issues, including a merit decision of the Board.³

The Board notes that the last merit decision was the Board's October 17, 2017 decision and appellant's request for reconsideration was received by OWCP on July 23, 2018. As the request was received within one year of the October 17, 2017 decision, it was timely filed.

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.⁴ The clear evidence of error standard utilized by OWCP in its August 29, 2018 decision is appropriate only for untimely reconsideration requests. After such further development as the OWCP deems necessary, it should issue an appropriate decision. Accordingly,

IT IS HEREBY ORDERED THAT the August 29, 2018 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: August 15, 2019
Washington, DC

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

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

² 20 C.F.R. § 10.607(a); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.5 (February 2016).

³ See *R.L.*, Docket No. 18-0496 (issued January 9, 2019); Federal (FECA) Procedure Manual, *id.* at Chapter 2.1602.4(a) (February 2016).

⁴ See 20 C.F.R. § 10.606(b)(3).