

On November 13, 2019 appellant requested reconsideration and submitted medical evidence including a copy of his Department of Veterans Affairs medical history.¹

On March 2, 2020 appellant again requested reconsideration and submitted additional evidence. He noted that he had previously submitted a request for reconsideration, but OWCP had not processed it.

By decision dated March 6, 2020, OWCP denied appellant's request for reconsideration, finding that it was untimely filed and failed to demonstrate clear evidence of error.

The Board has duly considered the matter and finds that appellant's November 13, 2019 request constituted a timely request for reconsideration. Section 10.607(a) of OWCP's implementing regulations provides that a request for reconsideration must be received by OWCP within one year of the date of the decision for which review is sought.² When determining the one-year period for requesting reconsideration, the last day of the period should be included unless it is a Saturday, Sunday, or a legal holiday.³ One year following OWCP's February 19, 2019 merit decision was February 19, 2020. Because OWCP received appellant's request on November 13, 2019, the Board finds that it was timely filed. The clear evidence of error standard utilized by OWCP in its March 6, 2020 decision is appropriate only for untimely reconsideration requests.⁴ Therefore, the Board will set aside OWCP's March 6, 2020 decision and remand the case for an appropriate decision applying the correct standard for timely requests for reconsideration.

¹ The record indicates that the employing establishment's compensation specialist forwarded the request for reconsideration to OWCP on appellant's behalf. The fax cover sheet noted that medical documentation was attached and that "[a]t this time [appellant's] case has been denied and he wishes to get it approved. Please process accordingly. Special note: The aforementioned request is time sensitive."

² 20 C.F.R. § 10.607(a). The one-year period begins on the next day after the date of the original contested decision. For merit decisions issued on or after August 29, 2011, a request for reconsideration must be received by OWCP within one year of OWCP's decision for which review is sought. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4 (February 2016).

³ Federal (FECA) Procedure Manual, *id.*

⁴ *See* 20 C.F.R. § 10.607(b).

IT IS HEREBY ORDERED THAT the March 6, 2020 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this order of the Board.

Issued: December 17, 2020
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board