



On June 17, 2016 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. By decision dated July 26, 2016, an OWCP hearing representative denied appellant's oral hearing request, finding that the request was untimely and that the issue in this case could equally well be addressed by a request for reconsideration before OWCP along with the submission of new evidence.

On May 16, 2017 appellant, through then-counsel, requested reconsideration. By decision dated August 9, 2017, OWCP denied modification of its July 26, 2016 decision.

On February 6, 2018 appellant, through then-counsel, requested reconsideration.

By decision dated August 17, 2018, OWCP accepted appellant's claim for a right eye injury of conjunctiva and corneal abrasion, a left shoulder joint sprain, and a left wrist sprain. However, it denied appellant's claim for additional conditions, finding that the evidence of record was insufficient to establish causal relationship between the additional diagnosed conditions and the accepted March 22, 2016 employment incident.

On May 28, 2019 appellant filed a claim for compensation (Form CA-7) for disability from work commencing May 10, 2019 due to the accepted conditions. On the reverse side of the claim form, the employing establishment noted that appellant returned to work on April 16, 2016 and stopped work again on May 10, 2016. The employing establishment indicated that appellant did not return to work after May 10, 2016 and voluntarily resigned on May 9, 2018. An attached notice of personnel action (Form SF-50) dated May 9, 2018 documented that appellant voluntarily resigned on that day.

In a development letter dated June 5, 2019, OWCP informed appellant that additional evidence was needed in support of her claim for wage-loss compensation. It advised her of the type of factual and medical evidence necessary to establish her claim and afforded her 30 days to submit the necessary evidence.

By decision dated July 9, 2019, OWCP denied appellant's claim for wage-loss compensation for disability from work commencing May 10, 2019, finding that the evidence of record was insufficient to establish causal relationship between the claimed disability and the accepted employment injury.

On March 10, 2020 appellant, through counsel requested reconsideration of OWCP's July 9, 2019 decision. Further evidence was submitted.

By decision dated March 31, 2020, OWCP denied appellant's reconsideration request. It noted that "[t]his refers to your letter requesting reconsideration of our decision dated August 9, 2017. Your letter was received February 6, 2018. According to the regulations in effect on the date the decision was issued, we will not review a decision unless the request is received within one year of that decision. We did consider your request under 20 C.F.R. § 10.607(b) to determine whether you presented clear evidence that the Office's last merit decision was incorrect."

The Board finds that this case is not in posture for decision. The preliminary notes that OWCP incorrectly reviewed appellant's prior request for reconsideration dated February 6, 2018.

The correct reconsideration request that was subject to proper review was received on March 10, 2020.

The Board has duly considered the matter and finds that appellant's March 10, 2020 request constituted a timely request for reconsideration of OWCP's July 9, 2019 merit decision. 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.<sup>2</sup> Because OWCP received appellant's reconsideration request on March 10, 2020, within one year of OWCP's July 9, 2019 merit decision, the Board finds that it was timely filed. The clear evidence of error standard utilized by OWCP in its March 31, 2020 decision is appropriate only for untimely reconsideration requests.<sup>3</sup> Therefore, the Board will set aside OWCP's March 31, 2020 decision and remand the case for an appropriate decision applying the correct standard for timely requests for reconsideration. Following this and other such further development as OWCP deems necessary, it shall issue an appropriate decision.

**IT IS HEREBY ORDERED THAT** the March 31, 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 31, 2020  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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

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<sup>2</sup> 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).

<sup>3</sup> *See id.* at § 10.607(b).