

Appellant also experienced a sore right thigh, forearm cramps, soreness in his back, and tingling in his right hand and fingers.

By decision dated July 28, 2015, OWCP denied appellant's claim, finding that he had not established the February 20, 2015 incident occurred as alleged.

On June 7, 2016 appellant, through counsel, requested reconsideration and submitted evidence in support of his request. By decision dated August 24, 2016, OWCP denied modification of the July 28, 2015 OWCP decision.

On October 20, 2016 appellant, through counsel, appealed to the Board. By decision dated August 3, 2017,³ the Board affirmed OWCP's August 24, 2016 decision, as modified. The Board found that the evidence submitted was sufficient to establish that the February 20, 2015 incident occurred as alleged and that appellant was in the performance of duty at the time of the incident. The Board, however, further found that appellant had not met his burden of proof to establish an injury causally related to the accepted February 20, 2015 employment incident.

On August 7, 2018 appellant, through counsel, requested reconsideration.

By decision dated August 1, 2019, OWCP denied modification, finding that the medical evidence of record was insufficient to establish causal relationship between the diagnosed medical condition and the accepted February 20, 2015 employment incident.

Section 10.607(a) of OWCP's regulations provides that a request for reconsideration must be received within one year of the date of OWCP's last merit decision for which review is sought.⁴ Timeliness is determined by the document receipt date of the request for reconsideration as indicated by the received date in the Integrated Federal Employees' Compensation System (iFECS).⁵ The Board has duly considered the matter and finds that appellant's request for reconsideration was untimely filed as it was not received until August 7, 2018, which is more than one year from the last merit decision, which was the Board's August 3, 2017 decision.

OWCP will consider an untimely request for reconsideration only if it demonstrates clear evidence of error on the part of its most recent decision. The request must establish, on its face, that such decision was erroneous.⁶ The standard utilized by OWCP in its August 1, 2019 decision is appropriate only for timely reconsideration requests. Because appellant filed an untimely reconsideration request, the case will be remanded to OWCP for application of the correct standard for reviewing untimely reconsideration requests, the clear evidence of error standard.⁷ After such

³ *Id.*

⁴ 20 C.F.R. § 10.607(a).

⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4(b) (February 2016).

⁶ *Id.* at § 10.607. *See also C.B.*, Docket No. 17-0933 (issued July 17, 2017); *A.B.*, Docket No. 15-0521 (issued June 13, 2016).

⁷ *Id.* at § 10.606(b).

further development as OWCP deems necessary, it shall issue an appropriate decision. Accordingly,

IT IS HEREBY ORDERED THAT the August 1, 2019 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: June 22, 2020
Washington, DC

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

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

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