

employment factors. It explained that there was no evidence to corroborate the specific employment incidents that she claimed caused or contributed to her alleged emotional condition. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

Appellant submitted additional evidence. On September 7, 2020 appellant, through counsel, requested reconsideration. By decision dated September 15, 2020, OWCP denied appellant's request for reconsideration, finding that it was untimely filed and failed to demonstrate clear evidence of error. It noted that her September 7, 2020 reconsideration request was not mailed within one year of the last merit decision of September 6, 2019.

The Board has duly considered the matter and finds that the case must be remanded to OWCP for application of the appropriate standard of review as appellant's September 7, 2020 request for reconsideration was timely filed.²

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.³ 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.⁴ One year following OWCP's September 6, 2019 merit decision was Sunday, September 6, 2020. As the last day of the one-year filing period fell on a weekend, appellant had until the close of business on Monday, September 7, 2020 to timely request reconsideration. Because OWCP received appellant's request on September 7, 2020, the Board finds that it was timely filed. The clear evidence of error standard utilized by OWCP in its September 15, 2020 decision is appropriate only for untimely reconsideration requests.⁵ Therefore, the Board will set aside OWCP's September 15, 2020 decision and remand the case for application of the appropriate standard of review for timely requests for reconsideration as set forth at 20 C.F.R. § 10.606(b)(3).⁶ Accordingly,

² *Order Remanding Case, R.M.*, Docket No. 20-0728 (issued October 21, 2020); *T.L.*, Docket No. 19-1110 (issued August 11, 2020).

³ 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 (September 2020).

⁴ Federal (FECA) Procedure Manual, *id.*

⁵ *See* 20 C.F.R. § 10.607(b).

⁶ *Order Remanding Case, P.J.*, Docket No. 19-0962 (issued December 30, 2019).

IT IS HEREBY ORDERED THAT the September 15, 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: September 1, 2022
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board