

² The Board notes that, following the July 9, 2024 decision, OWCP received additional evidence. The Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

2019, OWCP accepted the claim for a lower back strain. It subsequently expanded its acceptance of the claim to include intervertebral lumbar disc disorders with radiculopathy and lumbar disc displacement at L4-5.

On July 7, 2021, appellant filed a claim for compensation (Form CA-7) for disability from work for the period July 18, 2020 through July 2, 2021.

By decisions dated October 27, 2020 and November 10, 2021, OWCP denied appellant's claim for disability for the period July 20 through August 14, 2020. By decisions dated October 13, 2021, May 31, 2022, and June 29, 2023, OWCP denied appellant's disability claim for the period August 15, 2020 through July 2, 2021, finding that the medical evidence of record was insufficient to establish disability from work during the claimed period due to the accepted September 17, 2019 employment injury.

On July 1, 2024 appellant, through counsel, requested reconsideration of OWCP's June 29, 2023 decision and submitted legal argument.

By decision dated July 9, 2024, OWCP denied appellant's request for reconsideration, finding that it was untimely filed and failed to demonstrate clear evidence of error. It noted that his July 1, 2024 reconsideration request was not received within one year of the last merit decision of June 29, 2023.

The Board has duly considered this matter and finds that the case must be remanded to OWCP for application of the appropriate standard of review as appellant's July 1, 2024 request for reconsideration was timely filed.³

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.⁴ 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.⁵ One year following OWCP's June 29, 2023 merit decision was Saturday, June 29, 2024. As the last day of the one-year filing period fell on a weekend, appellant had until the close of business on Monday, July 1, 2024 to timely request reconsideration. Because OWCP received appellant's request on July 1, 2024, the Board finds that it was timely filed. The clear evidence of error standard utilized by OWCP in its July 9, 2024 decision is appropriate only for untimely reconsideration requests.⁶ Therefore, the Board will set aside OWCP's July 9, 2024 decision and remand the case for

³ *Order Remanding Case, R.K.*, Docket No. 20-1664 (issued September 1, 2022); *Order Remanding Case, R.M.*, Docket No. 20-0728 (issued October 21, 2020); *T.L.*, Docket No. 19-1110 (issued August 11, 2020).

⁴ 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).

⁵ Federal (FECA) Procedure Manual, *id.*

⁶ *See* 20 C.F.R. § 10.607(b).

application of the appropriate standard of review for timely requests for reconsideration as set forth at 20 C.F.R. § 10.606(b)(3).⁷ Accordingly,

IT IS HEREBY ORDERED THAT the July 9, 2024 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: February 10, 2025
Washington, DC

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

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

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

⁷ *Order Remanding Case, P.J.*, Docket No. 19-0962 (issued December 30, 2019).