

stopped work on June 6, 2018. After initial development, OWCP converted appellant's claim to an occupational disease claim.

By decision dated October 25, 2018, OWCP denied appellant's claim. It accepted his employment duties as a letter carrier and diagnosis of a medical condition, but denied his claim finding that he had not established that he "sustained an emotional condition that arose during the course of employment and within the scope of compensable work factors as defined by FECA."

OWCP subsequently received additional medical evidence in support of appellant's claim.

On October 29, 2019 appellant requested reconsideration. In an October 22, 2019 statement, he argued that he was in the performance of duty on June 6, 2018 when his supervisor informed him that he was allowed only two hours of official time to prepare for his EEOC meeting.

Appellant also submitted various notes dated September 27 to October 11, 2019 in which he requested a union steward, witness statements, and additional documentation regarding his EEOC claim.

By decision dated November 14, 2019, OWCP denied appellant's request for reconsideration of the merits of his claim finding that the request was untimely filed and failed to demonstrate clear evidence of error.

The Board finds that the case is not in posture for decision.

OWCP properly determined that appellant's October 29, 2019 request for reconsideration was untimely filed. The last merit decision was issued on October 25, 2018 and OWCP received appellant's reconsideration request on October 29, 2019.³ As his request for reconsideration was not received by OWCP within the one-year time limitation, pursuant to 20 C.F.R. § 10.607(a), the request for reconsideration was untimely filed. Consequently, appellant must demonstrate clear evidence of error by OWCP in denying the claim.⁴

The Board further finds that OWCP did not make any findings regarding the evidence submitted in support of the reconsideration request.⁵ OWCP summarily denied appellant's request for reconsideration without complying with the review requirements of FECA and its implementing regulations.⁶ Section 8124(a) of FECA provides that OWCP shall determine and

³ Timeliness is determined by the document receipt date of the request for reconsideration as is indicated by the "received date" in the Integrated Federal Employees' Compensation System (iFECS). If the request for reconsideration has a document received date greater than one year, the request must be considered untimely. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4(b) (February 2016).

⁴ 20 C.F.R. § 10.607(b); *see R.T.*, Docket No. 19-0604 (issued September 13, 2019); *see Debra McDavid*, 57 ECAB 149 (2005).

⁵ *See C.D.*, *Order Remanding Case*, Docket No. 19-1962 (issued June 29, 2020); *see also C.G.*, *Order Remanding Case*, Docket No. 20-0051 (issued June 29, 2020).

⁶ *T.P.*, Docket No. 19-1533 (issued April 30, 2020); *see also* 20 C.F.R. § 10.607.

make a finding of fact and make an award for or against payment of compensation.⁷ Its regulations at 20 C.F.R. § 10.126 provide that the decision of the Director of OWCP shall contain findings of fact and a statement of reasons.⁸ As well, OWCP's procedures provide that the reasoning behind OWCP's evaluation should be clear enough for the reader to understand the precise defect of the claim and the kind of evidence which would overcome it.⁹

In denying appellant's October 29, 2019 reconsideration request, OWCP failed to analyze the evidence or argument as to whether it was sufficient to demonstrate clear evidence of error. The November 1, 2019 decision simply noted: "we did consider your request under 20 C.F.R. § 10.607." However, OWCP did not address the arguments made by appellant in his October 22, 2019 statement and provided no discussion relative to the new evidence submitted by appellant.¹⁰ The Board will therefore set aside OWCP's November 14, 2019 decision and remand the case for an appropriate decision on appellant's untimely reconsideration request.¹¹ Accordingly,

⁷ 5 U.S.C. § 8124(a).

⁸ 20 C.F.R. § 10.126.

⁹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.5 (February 2013).

¹⁰ See *R.T.*, Docket No. 19-0604 (issued September 13, 2019); *R.C.*, Docket No. 16-0563 (issued May 4, 2016).

¹¹ 5 U.S.C. § 8124(a).

IT IS HEREBY ORDERED THAT the November 14, 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: August 13, 2020
Washington, DC

Christopher J. Godfrey, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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