

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of STEPHANIE SPENCER and DEPARTMENT OF LABOR,
OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION, Dallas, TX

*Docket No. 02-380; Submitted on the Record;
Issued July 17, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant met her burden of proof to establish that she sustained an injury causally related to factors of her employment.

On February 6, 2001 appellant, then a 37-year-old management and program assistant, filed an occupational disease claim alleging that she sustained an injury to her wrists, left elbow, shoulder and neck due to typing and writing performed in her job.

Among the medical evidence submitted by appellant was a February 7, 2001 report from Dr. Serge Pamphile, a February 9, 2001 x-ray report from Dr. David Frank, a February 28, 2001 magnetic resonance imaging scan from Dr. Frank, an April 24, 2001 addendum to Dr. Pamphile's February 7, 2001 report, May 4, 2001 notes from Dr. Pamphile and a May 24, 2001 report from Dr. Pamphile.

By decision dated April 4, 2001, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that the medical evidence did not establish that she sustained an injury causally related to her employment. The Office stated that the medical evidence of record consisted of a February 2001 medical treatment note from Dr. Jose Matus, a February 2001 electromyogram (EMG) report, two state workers' compensation forms completed by a physician and documentation of dates appellant saw her physician and a physical therapist.

By letter dated April 26, 2001, appellant requested a review of the written record and submitted additional evidence. She submitted copies of medical evidence from Drs. Frank and Pamphile that she believed the Office may not have received at the time of its April 4, 2001 decision.

By decision dated September 27, 2001, an Office hearing representative affirmed the Office's April 4, 2001 decision. He stated that the only medical evidence of record consisted of a February 2001 medical treatment note from Dr. Matus, a February 2001 EMG report, two state

workers' compensation forms completed by a physician and documentation of dates appellant saw her physician and a physical therapist.

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

The Federal Employees' Compensation Act¹ provides that the Office shall determine and make findings of fact in making an award for or against payment of compensation after considering the claim presented by the employee and after completing such investigation as the Office considers necessary with respect to the claim.² Since the Board's jurisdiction of a case is limited to reviewing evidence which is before the Office at the time of its final decision,³ it is necessary that the Office review all evidence submitted by a claimant and received by the Office prior to issuance of its final decision. As the Board's decisions are final as to the subject matter appealed,⁴ it is crucial that all evidence relevant to that subject matter which was properly submitted to the Office prior to the time of issuance of its final decision be addressed by the Office.⁵

It is clear from the record that the Office did not review some of the medical evidence submitted by appellant. The Office did not review the reports from Dr. Pamphile or Dr. Frank dated February 7 to May 24, 2001. On remand the Office should review all the evidence of record. After such further development as it deems necessary, the Office shall issue an appropriate decision.

¹ 5 U.S.C. §§ 8101-8193.

² 5 U.S.C. § 8124(a)(2); 20 C.F.R. §§ 10.125, 10.126.

³ See 20 C.F.R. § 501.2(c).

⁴ 20 C.F.R. § 501.6(c).

⁵ See *William A. Couch*, 41 ECAB 548, 553 (1990).

The decisions of the Office of Workers' Compensation Programs dated September 27 and April 4, 2001 are set aside and the case is remanded for further proceedings consistent with this decision.

Dated, Washington, DC
July 17, 2002

Michael J. Walsh
Chairman

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member