United States Department of Labor Employees' Compensation Appeals Board

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W.S., Appellant

and

U.S. POSTAL SERVICE, POST OFFICE, Los Angeles, CA, Employer Docket No. 11-1621 Issued: March 12, 2012

Case Submitted on the Record

Appearances: Alan J. Shapiro, Esq., for the appellant Office of Solicitor, for the Director

ORDER REMANDING CASE

Before: RICHARD J. DASCHBACH, Chief Judge ALEC J. KOROMILAS, Judge COLLEEN DUFFY KIKO, Judge

On July 5, 2011 appellant, through her attorney, filed an application for review of an Office of Workers' Compensation Programs' (OWCP) decision dated June 9, 2011 which denied modification of a decision denying appellant's claim for compensation beginning November 24, 2010.

The Board has duly considered the matter and finds that the case is not in posture for a decision and must be remanded to OWCP. In the case of *William A. Couch*,¹ the Board held that when adjudicating a claim, OWCP is obligated to consider all evidence properly submitted by a claimant and received by OWCP before the final decision is issued. Following OWCP's February 17, 2011 merit decision, appellant requested reconsideration on February 22, 2011. Appellant also submitted additional evidence. This included reports dated April 11 and 25, 2011 from Dr. A. Stern, appellant's treating physician, who addressed appellant's disability. Dr. Stern noted that appellant was diagnosed with right wrist/hand tenosynovitis/tendinopathy and underwent conservative care including medications, physical and manipulating therapy and injections and still had significant residual symptoms and disability. He advised that appellant underwent shockwave therapy. These documents were received by OWCP on May 31 and June 3, 2011. In its June 9, 2011 decision, OWCP denied appellant's reconsideration request on the grounds that the evidence submitted in support of her request was insufficient to establish

¹ 41 ECAB 548 (1990).

total disability for the period claimed. It did not note receipt or consideration of the April 11 and 25, 2011 reports.

The Board finds that OWCP, in its June 9, 2011 decision, did not review the April 11 and 25, 2011 reports from Dr. Stern that was received by OWCP on June 3, 2011. For this reason, the case will be remanded to OWCP to enable it to properly consider all the evidence submitted at the time of the June 9, 2011 decision. Following such further development as OWCP deems necessary, it shall issue an appropriate decision on the claim.

IT IS HEREBY ORDERED THAT the June 9, 2011 decision of the Office of Workers' Compensation Programs be set aside. The case record is remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: March 12, 2012 Washington, DC

> Richard J. Daschbach, Chief Judge Employees' Compensation Appeals Board

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

> Colleen Duffy Kiko, Judge Employees' Compensation Appeals Board