United States Department of Labor Employees' Compensation Appeals Board

M.O., Appellant	
and) Docket No. 13-1840
U.S. POSTAL SERVICE, POST OFFICE, Sutter Creek, CA, Employer) Issued: September 24, 2013)))
Appearances: Appellant, pro se Office of Solicitor, for the Director	Case Submitted on the Record

ORDER REMANDING CASE AND DENYING REQUEST FOR ORAL **ARGUMENT**

Before: RICHARD J. DASCHBACH, Chief Judge

COLLEEN DUFFY KIKO, Judge PATRICIA HOWARD FITZGERALD, Judge

On August 5, 2013 appellant filed an appeal of a May 29, 2013 final decision of the Office of Workers' Compensation Programs (OWCP). The appeal was docketed as No. 13-1840.

The May 29, 2013 OWCP decision finalizes a preliminary determination that an overpayment of \$148,642.64 was created and that appellant was at fault in creating the overpayment. According to the record, on May 29, 2013 appellant submitted 36 pages of evidence and argument with respect to the overpayment issues. There is no indication that OWCP reviewed the evidence submitted on May 29, 2013. In the May 29, 2013 final decision, OWCP states that appellant's response to the preliminary determination was a letter dated April 22, 2013 that was received on April 26, 2013.

It is well established that a claimant is entitled to a decision with findings of fact and a statement of reasons, and the Board has held that OWCP must review all the evidence received by OWCP prior to the issuance of its final decision.² Board decisions are final with regard to the

¹ 20 C.F.R. § 10.126.

² See Kenneth R. Love, 50 ECAB 193, 198 (1998); see also William A. Couch, 41 ECAB 548 (1990).

subject matter appealed, and it is crucial that OWCP consider all evidence relevant to the subject matter that was properly submitted to OWCP prior to the issuance of its final decision, even if received the same day of issuance.³ In the present case OWCP did not properly review the relevant evidence of record. The case will be remanded to OWCP for proper consideration of the evidence and an appropriate decision.⁴

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated May 29, 2013 is set aside and the case remanded for further action consistent with this order of the Board.

Issued: September 24, 2013 Washington, DC

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

> Colleen Duffy Kiko, Judge Employees' Compensation Appeals Board

> Patricia Howard Fitzgerald, Judge Employees' Compensation Appeals Board

³ See S.A., Docket No. 13-117 (issued April 25, 2013); Linda Johnson, 45 ECAB 439 (1994); Patsy R. Tatum, 44 ECAB 490 (1993).

⁴ Appellant requested an oral argument with respect to her appeal. In view of the Board's findings, an oral argument would only delay adjudication of the claim and serve no useful purpose.