

set aside the February 28, 2008 decision, finding that the record required further development on the issue of whether the diagnosed cerebral aneurysm and aseptic meningitis conditions were causally related to the September 22, 2005 work injury.

On remand, appellant was referred to a new impartial examiner, Dr. Stephen C. Delheimer, a Board-certified neurosurgeon, who found in a February 6, 2009 report that the diagnosed conditions of meningitis and aneurysms were neither caused, aggravated, or accelerated by appellant's employment events and/or working conditions on September 22, 2005. Based on Dr. Delheimer's report, OWCP found in a February 20, 2009 decision that appellant had no continuing disability or condition causally related to the September 2005 work injury. By decision dated September 15, 2009, OWCP's hearing representative affirmed the February 20, 2009 decision. By letters dated July 17 and August 5, 2010, appellant requested reconsideration, asserting that she sustained PTSD as a result of the September 2005 work injury. She submitted reports from two physicians, an October 27, 2008 report from Dr. Omar Garcia, and a June 21, 2010 from Dr. Joseph W. Fink, Ph.D., in support of her claim. By decision dated August 30, 2010, OWCP denied modification, finding that the weight of the medical opinion remained with Dr. Delheimer, the referee examiner.

Section 10.126 requires the Office to issue a decision containing findings of fact and a statement of reasons.¹ The Board finds that OWCP erred in its August 30, 2010 decision by failing to sufficiently discuss or analyze whether the reports from Dr. Garcia and Fink showed that appellant had sustained a PTSD condition as a consequence of her September 22, 2005 work injury. The report from Dr. Delheimer, the impartial examiner, found that appellant's diagnosed conditions of meningitis and aneurysms were not causally related to the September 2005 event. Dr. Delheimer, however, was not asked by OWCP to consider whether appellant's claimed PTSD condition was sustained as a result of the accepted September 2005 injury. In his appeal to the Board, appellant's attorney notes that OWCP has consistently failed to consider whether appellant's PTSD condition arose as a result of the September 2005 injury, despite the fact that she filed a claim for this condition in her August 8, 2008 Form CA-1 and presented medical evidence in support of this claim at that time and with her August 5, 2010 request for reconsideration. The Board therefore finds that OWCP failed to give proper consideration to the factual and medical evidence pertaining to whether appellant sustained a PTSD condition as a consequence of her accepted September 2005 work injury. The case should be remanded to OWCP for consideration of this issue.

Accordingly, the case will be set aside and remanded for consideration of the medical evidence pursuant to the standards set out in section 8128(a) and section 10.126. OWCP is directed to review this evidence for the purpose of determining whether appellant sustained a PTSD condition as a consequence of her accepted September 2005 work injury. After such further development as the Office deems necessary, it should issue an appropriate decision to protect appellant's appeal rights.

¹ 20 C.F.R. § 10.126.

IT IS HEREBY ORDERED THAT that the Office of Workers' Compensation Programs' decision dated August 30, 2010 be set aside and remanded for consideration of appellant's claim for a PTSD condition as a consequence of her accepted September 22, 2005 employment injury.

Issued: August 12, 2011
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