

**United States Department of Labor
Employees' Compensation Appeals Board**

C.B., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
New Paris, OH, Employer**

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**Docket No. 12-13
Issued: May 23, 2012**

Appearances:

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

Case Submitted on the Record

ORDER REMANDING CASE

Before:

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

On October 3, 2011 appellant, through her attorney, filed an application for review of an Office of Workers' Compensation Programs' (OWCP) decision dated August 30, 2011 which affirmed a decision terminating her medical and wage-loss benefits.¹

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*,² 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 a March 16, 2011 decision that terminated wage-loss compensation, appellant requested an oral hearing which was held on June 21, 2011. She also submitted additional evidence. This included reports dated March 16, April 27 and May 20, 2011 from Dr. James Hoover, appellant's treating physician, who opined that appellant was permanently disabled from her postal position due to her work injury. These documents were received by OWCP on March 24, May 2 and June 3, 2011. In its August 30, 2011 decision, an OWCP hearing representative affirmed the March 16, 2011

¹ On May 17, 2006 appellant filed a notice of occupational disease alleging that walking and carrying a mailbag caused her low back condition. OWCP accepted her claim for aggravation of mild lumbar scoliosis with intermittent left S1 radiculitis imposed over multilevel bulging lumbar discs. Appellant stopped work on August 20, 2008 due to her work injury.

² 41 ECAB 548 (1990).

decision terminating appellant's compensation benefits and noted receipt of Dr. Hoover's May 20, 2011 report. The hearing representative did not note receipt or consideration of the March 16 and April 27, 2011 reports from Dr. Hoover.

The Board finds that OWCP, in its August 30, 2011 decision, did not review the March 16 and April 27, 2011 reports from Dr. Hoover that were received by OWCP on March 24 and May 2, 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 August 30, 2011 decision. Following such further development as OWCP deems necessary, it shall issue an appropriate merit decision on the claim.

IT IS HEREBY ORDERED THAT the August 30, 2011 decision of the Office of Workers' Compensation Programs set aside. The case recorded is remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: May 23, 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