

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

P.C., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Bellmawr, NJ, Employer**

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**Docket No. 14-112
Issued: April 25, 2014**

Appearances:
Thomas R. Uliase, 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, Alternate Judge
MICHAEL E. GROOM, Alternate Judge

On October 10, 2013 appellant, through his attorney, filed an application for review of an Office of Workers' Compensation Programs' (OWCP) decision dated July 25, 2013, which denied his request for reconsideration on the grounds that the evidence submitted was repetitious and insufficient to warrant merit review.

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 it before the final decision is issued. Following a November 26, 2011 decision that denied appellant's claim for an occupational disease on the grounds that he failed to submit medical evidence establishing a causal relationship between the accepted work events and his diagnosed condition, appellant, through counsel, requested reconsideration on March 18, 2013. With this request, he submitted a new March 3, 2013 report from Dr. Stacy David Treiman, a podiatrist, who noted x-ray findings of boney spurring, arthritic foot changes and plantar fasciitis. Dr. Treiman noted that appellant worked for the employing establishment for 25 years and opined that his foot arthritis was a direct result of standing on his feet while on concrete. She noted that appellant's work activities required him to walk on concrete, push and

¹ 41 ECAB 548 (1990).

pull mail in rolling equipment, bend and stand for up to six hours in one place sorting mail and loading and unloading mail. Dr. Treiman opined that these work duties caused the joints of appellant's feet to undergo change which caused a break down in the support structure of the feet causing bones to become worn and torn. She stated that there was a causal relationship between his foot discomfort and working on his feet for the employing establishment for 25 years. Dr. Treiman supported that appellant's work duties caused or aggravated his bilateral foot condition. This report was received by OWCP on March 18, 2013. On April 30, 2013 counsel requested that OWCP address his March 18, 2013 reconsideration request. In its July 25, 2013 decision, OWCP denied appellant's reconsideration request on the grounds that the evidence submitted was repetitious and insufficient to warrant merit review. It noted receipt of his reconsideration request and addressed previously submitted evidence but it did not consider the March 3, 2013 report from Dr. Treiman.

The Board finds that OWCP, in its July 25, 2013 decision, did not review the March 3, 2013 report from Dr. Treiman that was received by OWCP on March 18, 2013.² 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 July 25, 2013 decision. Following such further development as OWCP deems necessary, it shall issue an appropriate decision on the reconsideration request.

IT IS HEREBY ORDERED THAT the July 25, 2013 decision of the Office of Workers' Compensation Programs is set aside. The case recorded is remanded to OWCP for further proceedings consistent with this order of the Board.

² See *Linda Johnson*, 45 ECAB 439, 440 (1994) (where the Board held that it is necessary that OWCP review all evidence submitted by a claimant and received by OWCP prior to issuance of its final decision).

Issued: April 25, 2014
Washington, DC

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

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

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board