

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

B.S., Appellant)	
)	
and)	Docket No. 16-0352
)	Issued: April 14, 2016
U.S. POSTAL SERVICE, POST OFFICE, Cleveland, OH, Employer)	
)	
)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:
CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
COLLEEN DUFFY KIKO, Judge

On December 18, 2015 appellant filed a timely appeal from a November 20, 2015 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). The Board docketed the appeal as 16-0352. In its November 20, 2015 decision upon reconsideration, OWCP declined to review the merits of appellant's claim and affirmed its prior decision of April 21, 2014, which denied appellant's claim for consequential injury arising from her accepted October 9, 1996 injury. It stated that appellant had not submitted sufficient evidence to warrant review of this decision.

The Board has duly considered the matter and notes that, in the case of *William A. Couch*,¹ it 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. On reconsideration appellant submitted progress notes dating from January 13 through October 13, 2015 from her treating physician, Dr. Arsel Ahmad, Board-certified in physical medicine and rehabilitation. OWCP further requested and received a physician's second opinion, from Dr. Donald C. Mann, Board-certified in neurology, dated July 28, 2015, in which the second opinion physician discussed findings of residuals of an accepted condition (reflex sympathetic dystrophy) in both appellant's arm and leg. These reports were received prior to OWCP's November 20, 2015 decision.

¹ 41 ECAB 548 (1990).

In its November 20, 2015 decision, OWCP stated: “The evidence submitted and reviewed in support of your reconsideration request includes your statement and a medical report dated April 1, 2015. [. . .] The medical evidence submitted with your request consists of a report from Jared Stefanko, DO, dated April 1, 2015, showing progress notes and treatment recommendations for left shoulder and scapular pain and left cervical radiculopathy.”²

While OWCP is not required to list every piece of evidence submitted to the record, it is clear that neither the numerous reports submitted from appellant’s treating physician from January 13 through October 13, 2015, nor the second opinion report requested by OWCP itself, were reviewed before the issuance of its November 20, 2015 decision. Whether it receives relevant evidence on the date of the decision or several days before, such evidence must be considered.³ In this case, each of these reports were received well in advance of OWCP’s November 20, 2015 decision. As the Board’s decisions are final as to the subject matter appealed, it is crucial that all evidence relevant to the subject matter of the claim properly submitted to OWCP be reviewed and addressed.⁴ Accordingly, the case is remanded for proper review of the evidence and, following any necessary further development, the issuance of an appropriate final decision.

IT IS HEREBY ORDERED THAT the decision of the Office of Workers’ Compensation Programs dated November 20, 2015 is set aside and the case remanded for further action consistent with this order of the Board.

Issued: April 14, 2016
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees’ Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees’ Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees’ Compensation Appeals Board

² This purported April 1, 2015 medical report from Dr. Stefanko could not be located in the case record.

³ *J.I.*, Docket No. 12-1062 (issued December 12, 2012); *William McKennon*, 51 ECAB 145 (1999).

⁴ *See Yvette N. Davis*, 55 ECAB 475 (2004).