

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of CHERYL P. BEARD and DEPARTMENT OF VETERANS AFFAIRS,  
VETERANS ADMINISTRATION MEDICAL CENTER, Oklahoma City, OK

*Docket No. 02-786; Submitted on the Record;  
Issued August 13, 2002*

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DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,  
A. PETER KANJORSKI

The issue is whether appellant sustained an injury to her right hand causally related to factors of her employment.

The Board has reviewed the case record and finds that this case is not in posture for decision.

On October 11, 2001 appellant, then a 51-year-old nurse, filed an occupational disease claim alleging that she sustained an injury to her right hand due to repetitive computer typing.

By letter dated October 18, 2001, the Office of Workers' Compensation Programs asked appellant to submit additional evidence.

By letter dated November 20, 2001, received by the Office on November 27, 2001, appellant submitted additional information regarding her claim, including an August 24, 2001 medical report from her attending physician, Dr. Dean Ross.

By decision dated November 27, 2001, the Office denied appellant's claim on the grounds that she failed to establish that she sustained an injury causally related to factors of her employment. The Office stated that it had not received any evidence in response to its October 18, 2001 letter to appellant, including medical evidence.

In this case, the record indicates that, on the date the Office issued its decision, November 27, 2001, it received an August 24, 2001 report from appellant's attending physician, Dr. Ross. As the Board found in *Linda Johnson*,<sup>1</sup> when the Office receives relevant evidence, it must be properly reviewed by the Office. This principle applies whether the Office receives evidence on the date it issues the decision or several days prior to issuance of the decision.<sup>2</sup> The

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<sup>1</sup> 45 ECAB 439 (1994).

<sup>2</sup> *Id.*; see also *William A. Couch*, 41 ECAB 548 (1990).

Office stated in its November 27, 2001 decision that no evidence had been received from appellant since its October 18, 2001 letter was sent to her, including medical evidence. Therefore it is clear from the record that the Office did not consider the August 24, 2001 report from Dr. Ross in evaluating this claim. Since this report was in the Office's possession at the time it issued its November 27, 2001 decision, it must be considered by the Office in weighing the evidence.<sup>3</sup>

Accordingly, the case must be remanded for a proper review of the evidence and an appropriate final decision.

The decision of the office of Workers' Compensation Programs dated November 27, 2001 is set aside and the case is remanded for further action consistent with this decision of the Board.

Dated, Washington, DC  
August 13, 2002

Michael J. Walsh  
Chairman

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>3</sup> *Willard McKennon*, 51 ECAB \_\_\_\_ (Docket No. 98-1513, issued October 21, 1999).