

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DONDREA LEWIS and U.S. POSTAL SERVICE,
POST OFFICE, New Orleans, LA

*Docket No. 02-1100; Submitted on the Record;
Issued September 18, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, ALEC J. KOROMILAS,
A. PETER KANJORSKI

The issue is whether appellant has established a recurrence of disability as of May 29, 2001.

The Office of Workers' Compensation Programs accepted that appellant, a distribution/window clerk, sustained a lumbar sprain in the performance of duty on November 8, 1999. Appellant returned to a light-duty position and was released to regular duty in February 2000. On May 31, 2001 appellant submitted a notice of recurrence of disability. She identified the date of recurrence as May 29, 2001.

In a decision dated February 21, 2002, the Office denied the claim. The Office did not discuss any medical evidence. According to the Office, it had sent a November 13, 2001 letter requesting additional evidence, and "no additional evidence was received."

The Board finds that the case is not in posture for decision.

It is well established that, when the Office receives relevant evidence, it must properly review such evidence.¹ As the Board's decisions are final as to the subject matter appealed, it is critical that all evidence relevant to the subject matter that was properly submitted to the Office prior to time of issuance of its final decision be addressed by the Office.²

In this case, the record submitted to the Board contains a report dated September 6, 2001 from Dr. Stuart Phillips, a Board-certified orthopedic surgeon, which is stamped as received by the Office on October 15, 2001. The Office does not discuss this report in its February 21, 2002 decision. In addition, the record contains a November 20, 2001 report from Dr. Phillips, stamped

¹ See *Willard McKennon*, 51 ECAB ____ (Docket No. 98-1513, issued October 21, 1999); *Linda Johnson*, 45 ECAB 439 (1994).

² *William A. Couch*, 41 ECAB 548 (1990).

as received by the Office on January 10, 2002. In its February 21, 2002 decision, the Office found that no additional evidence had been received in response to a November 13, 2001 letter.

The February 21, 2002 decision does not acknowledge that any medical evidence had been received with respect to the recurrence of disability claim. Since appellant did submit evidence that was received by the Office prior to its decision, the case will be remanded to the Office. On remand, the Office should issue an appropriate decision that addresses the relevant evidence of record.

The decision of the Office of Workers' Compensation Programs dated February 21, 2002 is set aside and the case remanded for further action consistent with this decision of the Board.

Dated, Washington, DC
September 18, 2002

Michael J. Walsh
Chairman

Alec J. Koromilas
Member

A. Peter Kanjorski
Alternate Member