

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

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**L.H., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Pembroke Pines, FL, Employer**

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**Docket No. 11-282  
Issued: August 25, 2011**

*Appearances:*

*Capp P. Taylor, 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 November 16, 2010 appellant, through his attorney, filed a timely appeal of an August 4, 2010 Office of Workers' Compensation Programs' (OWCP) decision. The Board docketed the appeal as No. 11-282. By its August 4, 2010 decision, OWCP denied modification of its August 6, 2007 decision denying appellant's claim for consequential low back, cervical and thoracic outlet conditions. Pursuant to the Federal Employees' Compensation Act (FECA)<sup>1</sup> and 20 C.F.R. §§ 501.2(c) and 501.3(e), the Board has jurisdiction over the merits of this case.

The Board has duly considered the matter and notes that in the case of *William A. Couch*,<sup>2</sup> 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. In the present case, OWCP received a May 11, 2010 report from Richard Sanders, M.D. on June 3, 2010. By decision dated August 4, 2010, OWCP stated that it had reviewed a telephonic report from Dr. Sanders dated April 22, 2010; it found that this report was of diminished probative value because the physician did not examine appellant. In his May 11,

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> 41 ECAB 548 (1990).

2010 report, however, Dr. Sanders stated in the introductory paragraph that he had examined appellant on that date. The report is five pages in length; the April 22, 2010 telephonic report contains two pages.

It is apparent that OWCP in its August 4, 2010 decision did not review the May 11, 2010 report from Dr. Sanders, as no reference was made to this evidence in the decision. For this reason, the case will be remanded to OWCP to enable it to properly consider all the evidence submitted prior to the issuance of the August 4, 2010 decision. Following such further development as OWCP deems necessary, it shall issue an appropriate decision on the merits.

**IT IS HEREBY ORDERED THAT** the August 4, 2010 decision of the Office of Workers' Compensation Programs is set aside; the case record is remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: August 25, 2011  
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