

In determining whether a claimant has discharged his burden of proof and is entitled to compensation benefits, the Office is required by statute and regulations to make findings of fact.¹ Office procedure further specifies that a final decision must include findings of fact and provide clear reasoning which allows the claimant to “understand the precise defect of the claim and the kind of evidence which would tend to overcome it.”² These requirements are supported by Board precedent.³

The Board finds that the December 21, 2009 decision of the Office does not contain adequate findings of fact and reasoning regarding the newly submitted evidence. The Office merely indicated that weight would be accorded to Dr. Kavanaugh without providing an explanation for this conclusion. In the absence of such findings and reasoning, appellant would not be able to understand the precise defect of his claim and the kind of evidence which would tend to overcome it.

The case must therefore be remanded to the Office for a proper decision which includes findings of fact, a clear precise statement regarding the basis for the decision and a copy of appellant’s appeal rights. After such development it deems necessary the Office should issue an appropriate decision.

¹ 5 U.S.C. § 8124(a) provides: “The [Office] shall determine and make a finding of facts and make an award for or against payment of compensation.” 20 C.F.R. § 10.126 provides in pertinent part that the final decision of the Office “shall contain findings of fact and a statement of reasons.”

² See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.4 (July 1997).

³ See *James D. Boller, Jr.*, 12 ECAB 45, 46 (1960).

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' December 21, 2009 decision be set aside and the case remanded for further action in conformance with this order of the Board to be followed by an appropriate decision.

Issued: June 28, 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