

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

N.C., Appellant)

and)

U.S. POSTAL SERVICE, POST OFFICE,)
Mesa, AZ, Employer)

**Docket No. 10-1747
Issued: May 25, 2011**

Appearances:
Appellant, pro se
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 June 21, 2010 appellant filed an application for review from an April 29, 2010 decision of the Office of Workers' Compensation Programs, which found that the medical evidence was insufficient to establish her claim for a traumatic injury.

The Board has duly considered the matter and finds that the case is not in posture for a decision and must be remanded to the Office. In the case of *William A. Couch*,¹ the Board held that, when adjudicating a claim, the Office is obligated to consider all evidence properly received by the Office before a final decision is issued. In the present case, following an initial denial on December 11, 2009, the Office accepted appellant's claim for aggravation of a right knee sprain on April 28, 2010. But on April 29, 2010, an Office hearing representative affirmed the December 11, 2009 denial of the claim. A review of the hearing representative's April 29, 2010 decision demonstrates that she did not consider the April 28, 2010 claim acceptance as she never referenced it or purported to rescind it. Accordingly, the case will be remanded to the Office to enable it to properly consider all of the evidence in the record at the time of the April 29, 2010 decision. Following this and any further development deemed necessary, the Office shall issue an appropriate merit decision on appellant's claim.

¹ 41 ECAB 548 (1990).

IT IS HEREBY ORDERED THAT the April 29, 2010 decision of the Office of Workers' Compensation Programs is set aside. The case is remanded to the Office for further proceedings consistent with this order of the Board.

Issued: May 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