

treatment prior to the November 27, 2008 employment incident including a July 11, 2007 note from Dr. George Branovacki, a Board-certified orthopedic surgeon; and progress notes dated January 7 and August 11, 2008 by Dr. Beverlee A. Brisbin, a physician Board-certified in family practice with a subspecialty of sports medicine. Appellant also submitted a report dated November 13, 2009 wherein Dr. Nasim A. Rana, a Board-certified orthopedic surgeon, stated that he first saw appellant on December 10, 2008 in regards to her right knee pain, that at that time she was known to have arthritis of the knees but that she was able to work until she tripped over a rubber mat and aggravated her pain in the knee which already had arthritis. Dr. Rana noted that consequently appellant was not able to work when he saw her and that she had significant pain in the knee with advanced osteoarthritic changes. He indicated that he told her that nothing short of a total knee replacement was going to be helpful, and she underwent this surgery on December 17, 2008, and made good gradual recovery. Dr. Rana stated that the injury of November 27, 2008 was strain or sprain of the knee on top of her previously known osteoarthritis. He noted that the employment injury aggravated her pains and expedited her surgery. By decision dated June 10, 2010, the Office denied modification of its prior decisions. In reviewing the case on the merits, it listed and discussed every piece of evidence appellant submitted on reconsideration, noted above, with the exception of Dr. Rana's November 13, 2009 report.

In the case of *William A. Couch*² the Board held that, when adjudicating a claim, the Office is obligated to consider all evidence properly submitted by appellant and received by the Office before the final decision is issued. As the Office failed to consider Dr. Rana's November 13, 2009 report, it did not consider all of the medical evidence of record prior to making its decision on June 10, 2010. Accordingly, the case will be remanded to the Office to enable it to properly consider all the evidence submitted at the time of its decision. Following this and any other development deemed necessary, the Office shall issue a *de novo* decision on appellant's claim.

² 41 ECAB 548 (1990). See also *Linda Johnson*, 45 ECAB 439 (1994) (applying *Couch* in a situation where the Office did not consider evidence received on the date of its decision).

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated June 10, 2010 is set aside and the case is remanded for further action 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