



of the right shoulder. Dr. Swany opined that appellant developed a rotator cuff tear and surrounding tendinosis in the right shoulder as a result of her work-related activities involving frequent forward flexion and lifting. On July 15, 2011 OWCP received two additional reports from Dr. Swany dated June 26, 2011, and a statement from appellant addressing questions contained in OWCP's June 10, 2011 development letter regarding the specific activities she alleged to be the cause of her shoulder condition.

In a decision dated July 18, 2011, OWCP denied appellant's claim on the grounds that the medical evidence did not show a causal relationship between the claimed condition and employment activities. OWCP identified documents received and reviewed prior to issuance of its decision. It did not, however identify or refer to Dr. Swany's reports dated June 26 and July 1, 2011 or appellant's July 1, 2011 statement.

The Board finds that this case is not in posture for a decision, as OWCP failed to review and consider all evidence of record prior to issuing its July 18, 2011 decision. Therefore, the case must be remanded for a merit review of all evidence received and an appropriate final decision.

Board precedent requires OWCP to review all evidence submitted by a claimant and received prior to the issuance of its final decision.<sup>1</sup> Based upon the claims examiner's discussion of the evidence, it is clear that he did not review or consider the June 26 and July 1, 2011 reports from appellant's physicians, or appellant's July 1, 2011 statement, prior to issuing its final decision. These documents were properly before OWCP in this case, and it was required to review and consider them prior to issuing its final decision. The Board, therefore, will set aside the July 18, 2011 decision and remand the case to OWCP for consideration of the evidence that was properly submitted by appellant prior to its final decision and the issuance of a *de novo* decision on the merits of the claim.

---

<sup>1</sup> See *William A. Couch*, 41 ECAB 548 (1990).

**IT IS HEREBY ORDERED THAT** the July 18, 2011 Office of Workers' Compensation Programs' decision in File No. xxxxxx466 is set aside and the case is remanded for action consistent with the terms of this order.

Issued: April 12, 2012  
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