

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

C.M., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Denver, CO, Employer**

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**Docket No. 13-337
Issued: April 25, 2013**

Appearances:
Daniel M. Goodkin, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:
RICHARD J. DASCHBACH, Chief Judge
COLLEEN DUFFY KIKO, Judge
PATRICIA HOWARD FITZGERALD, Judge

On November 27, 2012 appellant filed an application for review of an Office of Workers' Compensation Programs' (OWCP) decision dated November 13, 2012, which denied her request for modification of the prior wage-earning capacity decision.

The Board has duly reviewed the case record submitted by OWCP notes that the record is incomplete. On December 6, 2012 the Board served the Director of OWCP with a copy of the application for review and requested the Director to transmit the case record to the Board in accordance with the Board's *Rules of Procedure*.¹ The Board notes that OWCP's November 13, 2012 decision states that appellant filed her occupational disease claim on February 17, 1997 and it references multiple documents from the late 1990s. However, the case record transmitted to the Board does not include the 1997 initial occupational disease claim form or all of the referenced evidence from the 1990s. Most of the evidence in the record before the Board is from January 2002 and later.

As the record before the Board is incomplete and would not permit an informed adjudication of the case by the Board, the Board concludes that the case is not in posture for a

¹ 20 C.F.R. § 501.4.

decision and must be remanded to OWCP for reconstruction and proper assemblage of the case record, to be followed by an appropriate decision to preserve appellant's appeal rights.

IT IS HEREBY ORDERED THAT the November 13, 2012 decision of the Office of Workers' Compensation Programs is set aside. The case recorded is remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: April 25, 2013
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board