

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

C.C., Appellant)

and)

U.S. POSTAL SERVICE, POST OFFICE,)
Chippewa Falls, WI, Employer)

Docket No. 13-1587
Issued: November 22, 2013

Appearances:
Appellant, pro se
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 June 26, 2013 appellant filed a timely appeal of a May 31, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP). The appeal was docketed as No. 13-1587.

The Board has reviewed the record and finds that the case must be remanded to OWCP. It is well established that an OWCP final decision must make adequate findings and provide a statement of reasons.¹ In addition, OWCP procedures state that a final decision should "discuss key parts of the evidence received" and include "an evaluation of the evidence [that] should be clear and detailed so that the reader understands the reason for the disallowance of the benefit and the evidence necessary to overcome the defect of the claim."² The May 31, 2013 OWCP decision does not meet this standard.

Appellant filed a traumatic injury claim alleging a right shoulder injury on April 13, 2013. The May 31, 2013 OWCP decision acknowledges that he submitted reports from a chiropractor, without adequately discussing any of the specific content of the reports. OWCP makes a general finding that the medical evidence "only contains a diagnosis of pain." This finding is not supported by the record, as the reports contain a number of diagnosed conditions,

¹ 20 C.F.R. § 10.126. *See also O.R.*, 59 ECAB 432 (2008).

² Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.5(c) (February 2013).

such as nonallopathic lesions of the rib cage and thoracic spine (International Classification of Diseases No. 739.8 and 739.2), as well as C5-7 degeneration. The decision states that the chiropractor “did not include an x-ray with the diagnosis of subluxation of the spine,” but also states that the evidence did not contain a medical diagnosis in connection with the injury or events.

If OWCP is finding that the chiropractor is not a physician under the Federal Employee’s Compensation Act³ (FECA), they must properly discuss the specific medical evidence, the definition of subluxation and appropriate case law on the issue.⁴ If OWCP finds the chiropractor is a physician under FECA, then the probative value of the reports on the issue of causal relationship between a diagnosed condition and the employment incident must properly be discussed.

The case will be remanded to OWCP for proper findings and a decision that adequately addresses the issue presented. After such further development as OWCP deems necessary, it should issue an appropriate decision.

IT IS HEREBY ORDERED THAT the decision of the Office of Workers’ Compensation Programs dated May 31, 2013 is set aside and the case remanded for further action consistent with this order of the Board.

Issued: November 22, 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

³ The term “physician” includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist. 5 U.S.C. § 8101(2). The term subluxation means an incomplete dislocation, off-centering, misalignment, fixation or abnormal spacing of the vertebrae. 20 C.F.R. § 10.5(bb).

⁴ The Board notes, for example, that a May 14, 2013 form report (CA-20) refers to misalignments of the spine and x-ray changes and a May 14, 2013 narrative report notes malposition of the upper thoracic spine on x-rays.