

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

J.Y., Appellant

and

**DEPARTMENT OF THE AIR FORCE, TRAVIS
AIR FORCE BASE, CA, Employer**

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**Docket No. 13-471
Issued: January 2, 2014**

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 December 20, 2012 appellant filed a timely appeal from a December 18, 2012 decision of the Office of Workers' Compensation Programs (OWCP) denying his request for reconsideration. The Board assigned Docket No. 13-471.

OWCP accepted that appellant sustained a temporary aggravation of psoriasis due to his employment duties as an aircraft mechanic.¹ On January 29, 2009 appellant filed a claim for a schedule award. By decision dated March 19, 2010, OWCP denied his claim as the evidence was insufficient to establish that he sustained a permanent impairment. An OWCP hearing representative affirmed the denial on June 28, 2010 based on the opinion of the independent medical adviser.² Following reconsideration, by decision dated September 22, 2011, the hearing representative denied modification finding that appellant had not established that his accepted skin condition contributed to a permanent impairment for schedule award purposes. Although appellant timely requested reconsideration on November 11, 2011, in its February 16, 2012 decision, OWCP denied appellant's request for reconsideration on the grounds that the request

¹ Appellant retired from the employing establishment effective September 7, 2004.

² On January 21, 2011 the Board granted appellant's request to dismiss his appeal. Docket No. 10-1982 (issued January 21, 2011).

was untimely filed and failed to establish clear evidence of error. Appellant requested reconsideration on March 23, 2012. By decision dated June 20, 2012, OWCP denied his request for reconsideration without a review of the merits, stating that he “neither raised substantive legal questions nor included new and relevant evidence.” Appellant again requested reconsideration on November 6, 2012 of the February 16, 2012 decision. On December 18, 2012 OWCP informed him to refer to the appeal rights that accompanied the February 16, 2012 decision.

Section 8124(a) of FECA provides: “[OWCP] shall determine and make a finding of fact and make an award for or against payment of compensation”³ Section 10.126 of Title 20 of the Code of Federal Regulations provide: “The decision shall contain findings of fact and a statement of reasons.”⁴ Moreover, OWCP’s procedures provide: “The reasoning behind the [OWCP’s] evaluation should be clear enough for the reader to understand the precise defect of the claim and the kind of evidence which would overcome it.”⁵

OWCP did not discharge its responsibility to provide appellant a statement explaining the disposition so that appellant could understand the basis for the decision as well as the precise defect and the evidence needed to overcome the denial of his claim.

The case must be returned to OWCP for a proper decision which includes findings of fact and a clear and precise statement regarding appellant’s request for reconsideration on the denial of his claim for a schedule award or why he is not entitled to further reconsideration. Following this and such further development as OWCP deems necessary, it shall issue an appropriate decision.

³ 5 U.S.C. § 8124(a); *see Hubert Jones, Jr.*, 57 ECAB 467 (2006); *Paul M. Colosi*, 56 ECAB 294 (2005).

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

⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.4(e) (March 1997).

IT IS HEREBY ORDERED THAT the December 18, 2012 Office of Workers' Compensation Programs' decision be set aside and the case remanded for further action consistent with this order of the Board.

Issued: January 2, 2014
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