

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

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B.R., Appellant )

and )

DEPARTMENT OF LABOR, MINE, SAFETY & )  
HEALTH ADMINISTRATION, Denver, CO, )  
Employer )

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**Docket No. 13-2005  
Issued: May 5, 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  
ALEC J. KOROMILAS, Alternate Judge  
MICHAEL E. GROOM, Alternate Judge

On August 29, 2013 appellant filed an application for review of an Office of Workers' Compensation Programs' (OWCP) decision dated August 14, 2013, which denied her emotional condition claim.<sup>1</sup>

The Board has duly considered the matter and finds that the case is not in posture for a decision and must be remanded to OWCP. In the case of *William A. Couch*,<sup>2</sup> the Board held that when adjudicating a claim, OWCP is obligated to consider all evidence properly submitted by a claimant and received by OWCP before the final decision is issued.

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<sup>1</sup> Appellant requested an oral argument. The Clerk of the Board mailed a letter to her to confirm a continuing desire for an oral argument in Washington, DC. No written confirmation was received; thus the Board has decided the appeal on the record.

<sup>2</sup> 41 ECAB 548 (1990).

The Board finds that OWCP, in its August 14, 2013 decision, did not review the April 9, 2013 factual statement from appellant that was received by OWCP on April 16, 2013.<sup>3</sup> The Board notes that OWCP listed all of the evidence submitted with the exception of appellant's statement which set forth her allegations of unfair treatment at the employing establishment. OWCP did not otherwise indicate that it considered appellant's statement. For this reason, the case will be remanded to OWCP to consider all the evidence submitted at the time of the August 14, 2013 decision. Following such further development as OWCP deems necessary, it shall issue an appropriate merit decision on the claim.

**IT IS HEREBY ORDERED THAT** the August 14, 2013 decision of the Office of Workers' Compensation Programs is set aside. The case record is remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: May 5, 2014  
Washington, DC

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

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>3</sup> On February 8, 2013 appellant, then a 56-year-old mine safety and health technician, filed an occupational disease claim alleging that she was harassed and discriminated against at work causing her to sustain stress and anxiety in the performance of duty. By decision dated August 14, 2013, OWCP denied the claim for compensation as the evidence was insufficient to establish that appellant sustained an injury as alleged. It found that appellant did not establish a factual or medical basis for her claim.