

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

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**K.B., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Dowagiac, MI, Employer**

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**Docket No. 14-237  
Issued: May 6, 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 November 8, 2013 appellant filed an application for review of an Office of Workers' Compensation Programs' (OWCP) decision dated October 16, 2013 which denied modification of a decision terminating her compensation benefits.

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>1</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. Following an April 26, 2013 decision that denied modification of a January 16, 2013 decision terminating appellant's compensation benefits,<sup>2</sup> appellant's representative, requested reconsideration on July 25, 2013. Appellant submitted a July 22, 2013 report from Dr. Ward who had treated her since 2010. Dr. Ward opined that she should remain out of work until after her cervical spine surgery was performed. He noted that appellant had a long-standing history of right C6 radiculopathy. Dr. Ward advised that he previously released her to work because she requested a release to

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<sup>1</sup> 41 ECAB 548 (1990).

<sup>2</sup> The January 16, 2013 decision found that appellant's physician, Dr. Robert Ward, an osteopath who opined that appellant could return to work without restrictions, represented the weight of the evidence.

return to work without restrictions to try and keep her job. However, he noted that appellant was unable to perform in that capacity and he returned her to work with restrictions. Dr. Ward noted her most recent magnetic resonance imaging scan findings and that another physician recommended neurosurgery. He noted these findings were consistent with appellant's original complaints of two years ago. This report was received by OWCP on July 25, 2013. In its October 16, 2013 decision, OWCP denied modification of the January 16, 2013 decision. It noted receipt of appellant's reconsideration request and addressed evidence from Dr. Sonia Eden, reports of injections and physical therapy reports, but it did not consider the July 22, 2013 report from Dr. Ward.

The Board finds that OWCP did not review the July 22, 2013 report from Dr. Ward that was received on July 25, 2013.<sup>3</sup> For this reason, the case will be remanded to OWCP to enable it to properly consider all the evidence submitted at the time of the October 16, 2013 decision. Following such further development as OWCP deems necessary, it shall issue an appropriate decision on the reconsideration request.

**IT IS HEREBY ORDERED THAT** the October 16, 2013 decision of the Office of Workers' Compensation Programs is set aside and the case record is remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: May 6, 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> See *Linda Johnson*, 45 ECAB 439, 440 (1994) (where the Board held that it is necessary that OWCP review all evidence submitted by a claimant and received by OWCP prior to issuance of its final decision).