

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

R.M., Appellant	)	
	)	
and	)	Docket No. 14-330
	)	Issued: May 5, 2014
U.S. POSTAL SERVICE, POST OFFICE, Uniontown, AL, Employer	)	
	)	
	)	

*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 27, 2013 appellant filed an application for review of a November 7, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP) denying appellant's occupational disease claim.

Having reviewed the case record submitted by OWCP, the Board finds that the evidence submitted in the record is incomplete and the case is not in posture for a decision. Appellant filed an occupational disease claim on September 20, 2013. She alleged that on December 13, 2007 she was sent for a fitness-for-duty examination for the reason that she was a threat to herself and others "caused by job stress due to harassment, bullying and being falsely accused of involvement with A." Appellant alleged that she sustained "work-stress related depression and anxiety." By decision dated November 7, 2013, OWCP denied her claim, finding that she had not established the factual component of her injury, because the evidence did not support that the injury and or events occurred.

The Federal Employees' Compensation Act<sup>1</sup> (FECA) provides that OWCP shall determine and make findings of fact in making an award for or against payment of compensation after considering the claim presented by the employee and after completing such investigation as it considers necessary with respect to the claim.<sup>2</sup> Since the Board's jurisdiction of a case is

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*  
<sup>2</sup> *Id.* at § 8124(a)(2); 20 C.F.R. § 10.125.

limited to reviewing that evidence which was before OWCP at the time of its final decision,<sup>3</sup> it is necessary that OWCP review all evidence submitted by a claimant and received by OWCP prior to issuance of its final decision. As the Board's decisions are final as to the subject matter appealed,<sup>4</sup> it is crucial that all evidence relevant to that subject matter which was properly submitted to OWCP prior to the time of issuance of its final decision be addressed by OWCP.<sup>5</sup> In the instant case, OWCP did not review evidence received on November 7, 2013, the date of its November 7, 2013 decision. The evidence was comprised of reports dated August 15, 28 and October 23, 2013 from Dr. Bruce Taylor, a Board-certified internist. The Board will set aside OWCP's November 7, 2013 decision and remand the case to OWCP to fully consider the evidence which was properly submitted by appellant. Following reconstruction of the record, OWCP shall issue a *de novo* decision on the merits of the claim.<sup>6</sup>

**IT IS HEREBY ORDERED THAT** the November 7, 2013 decision of the Office of Workers' Compensation Programs is set aside and the case remanded to OWCP for further action consistent with this order.

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> See 20 C.F.R. § 501.2(c).

<sup>4</sup> *Id.* at § 501.6(c).

<sup>5</sup> *Linda Johnson*, 45 ECAB 439 (1994) (evidence received the same day on which OWCP issues its final decision must be considered); *William A. Couch*, 41 ECAB 548 (1990).

<sup>6</sup> The record forwarded to the Board includes evidence suggesting that appellant previously filed similar claims under claim numbers xxxxxx064 and xxxxxx682. OWCP procedures provide that cases should be doubled when a new injury is reported for an employee who previously filed an injury claim for a similar condition and further indicates that the cases should be doubled as soon as the need to do so becomes apparent. See Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c)(1) (February 2000). On remand, OWCP should consider whether it should combine these emotional conditions claim files pursuant to its procedures so that all pertinent evidence may be considered.