

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

S.J., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
O'Fallon, IL, Employer**

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**Docket No. 14-1041
Issued: November 10, 2014**

Appearances:

*Alan J. Shapiro, Esq., for the appellant
Office of Solicitor, for the Director*

Case Submitted on the Record

ORDER REMANDING CASE

Before:

CHRISTOPHER J. GODFREY, Chief Judge
COLLEEN DUFFY KIKO, Judge
PATRICIA HOWARD FITZGERALD, Judge

On March 27, 2014 appellant, through counsel, filed a timely application for review of a March 5, 2014 merit decision by the Office of Workers' Compensation Programs (OWCP) denying his claim for a traumatic injury. The Board docketed the appeal as No. 14-1041. Having reviewed the case record submitted by OWCP, the Board finds that this case is not in posture for decision.

This case has been before the Board. The facts as set forth in the Board's prior decision are hereby incorporated by reference.¹

By letter dated November 1, 2012 and received by OWCP on November 5, 2012, appellant, through counsel, requested reconsideration. In support of the request for reconsideration, appellant's counsel submitted two new medical reports, a February 23, 2012 report by Dr. Rob Fast, a chiropractor, and a November 12, 2011 report by Dr. William H. Thom, a physician Board-certified in anesthesiology and pain medicine. Although this medical

¹ *S.J.*, Docket No. 11-321 (issued September 9, 2011). (On February 22, 2010 appellant, then a 45-year-old mail carrier, filed a traumatic injury claim alleging that on February 13, 2010, due to weather conditions, he slipped and fell on concrete injuring his head and hip. The Board affirmed OWCP's October 20, 2010 denial of appellant's claim. The Board found that, although appellant established that an employment incident occurred as alleged, he did not establish that an injury resulted from the fall).

report was not new (it had previously been received by OWCP on December 12, 2011) it has never been reviewed by OWCP. By decision dated March 5, 2014, it denied modification of the denial of appellant's claim. In the decision, OWCP discussed Dr. Fast's report, but only referred to earlier reports of Dr. Thom which had been reviewed by the Board in its September 9, 2011 decision.

OWCP denied appellant's claim for the reason that he did not submit medical evidence sufficient to establish a causal relationship between his accepted employment incident of February 13, 2010 and his medical diagnoses. As the Board's jurisdiction of a case is limited to reviewing that evidence that was before OWCP at the time of its final decision,² it is necessary that OWCP review all the evidence submitted by a claimant and received by OWCP prior to the issuance of its final decision.³

Accordingly, the Board finds that this case is not in posture for decision as OWCP did not review all the relevant evidence before issuing its decision. On remand, OWCP shall review all submitted evidence and, following any necessary further development, issue a *de novo* decision.

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated March 5, 2014 is set aside, and the case is remanded for further development consistent with this order of the Board.

Issued: November 10, 2014
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

² 20 C.F.R. § 501.2(c)(1).

³ See *William A. Couch*, 41 ECAB 548 (1990).