

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

G.S., Appellant

and

**DEPARTMENT OF THE NAVY, NAVAL
STATION, Norfolk, VA, Employer**

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**Docket No. 14-1933
Issued: November 7, 2014**

Appearances:
Laura A. O'Reilly, 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 February 21, 2014 appellant, through his attorney, filed a timely appeal from a September 11, 2013 decision of the Office of Workers' Compensation Programs (OWCP) denying his request for reconsideration. The Board assigned Docket No. 14-1933.

On February 1, 2012 appellant, then a 43-year-old electrician, filed a traumatic injury claim alleging that he sustained traumatic stress and anxiety attacks which caused his pain levels to skyrocket as a result of being verbally abused by a supervisor on January 25, 2012.

In a May 17, 2013 decision, OWCP denied appellant's claim. It found that the evidence was insufficient to establish that the claimed incident occurred as alleged.

By letter dated June 26, 2013, appellant, through his attorney, requested reconsideration. Counsel contended that the evidence submitted was sufficient to establish that the January 25, 2012 incident occurred as alleged and that his emotional condition and resultant disability for work were caused by the alleged work incident. She detailed the facts and circumstances surrounding the alleged employment incident, as well as the medical evidence and explained why appellant had established his claim.

In a September 11, 2013 decision, OWCP denied appellant's request for reconsideration without a review of the merits, finding that he neither raised substantive legal questions nor included new and relevant evidence.

The Board has duly considered the matter and finds that this case is not in posture for decision. Section 8124(a) of the Federal Employees' Compensation Act provides that OWCP shall determine and make a finding of fact and make an award for or against payment of compensation.¹ Its regulations also state that the decision shall contain findings of fact and a statement of reasons.² The reasoning behind 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.³

In its September 11, 2013 decision, OWCP did not discharge its responsibility to provide appellant a statement explaining the disposition so that he 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 Board notes that it did not provide any discussion of the arguments appellant submitted in support of his reconsideration request.

Accordingly, 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 an emotional condition 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.

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

² 20 C.F.R. § 10.126. See also *O.R.*, 59 ECAB 432 (2008); *Teresa A. Ripley*, 56 ECAB 528 (2005); *M.L.*, Docket No. 09-956 (issued April 15, 2010).

³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.5 (c) (February 2013).

IT IS HEREBY ORDERED THAT the September 11, 2013 decision of the Office of Workers' Compensation Programs' decision is set aside and the case remanded for further action consistent with this order of the Board.

Issued: November 7, 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