

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

R.G., Appellant

and

**DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE, Page, AZ,
Employer**

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**Docket No. 14-480
Issued: October 23, 2014**

Appearances:
Steven E. Brown, 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 December 31, 2013 appellant filed an application for review of an Office of Workers' Compensation Programs' (OWCP) decision dated December 16, 2013, which affirmed the June 7, 2013 OWCP decision finding that the position of information clerk fairly and reasonably represented appellant's wage-earning capacity.

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*,¹ 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 the June 7, 2013 decision that found that the position of information clerk fairly and reasonably represented appellant's wage-earning capacity, appellant's representative requested an oral hearing. Appellant subsequently submitted new reports from Dr. Michael Demangone, Board-certified in emergency medicine, dated July 8 and September 6, 2013. OWCP received these reports on October 21, 2013. In the December 16, 2013 decision, an OWCP hearing representative affirmed the June 7, 2012 decision finding that the position of information clerk fairly and reasonably represented appellant's wage-earning capacity. She referenced reports of a second opinion physician and noted that there were no current medical reports from a treating physician.

¹ 41 ECAB 548 (1990).

The hearing representative did not consider the July 8 or September 6, 2013 reports from Dr. Demangone.

For this reason, the case will be remanded to OWCP to enable it to properly consider all the evidence submitted prior to the issuance of the December 16, 2013 decision. Following this and such further development as OWCP deems necessary, it shall issue an appropriate merit decision.

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

Issued: October 23, 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