

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

A.C., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
North Metro, GA, Employer**

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**Docket No. 14-1998
Issued: March 11, 2015**

Appearances:
Martin Kaplin, 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 September 17, 2014 appellant, through her attorney, filed an application for review of an August 7, 2014 Office of Workers' Compensation Programs' (OWCP) decision which denied modification of the November 21, 2013 decision, finding that she did not sustain an injury as alleged.¹

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*,² 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. In this case, in a decision dated August 7, 2014, OWCP denied modification of the November 21, 2013 decision, which denied her claim for an occupational disease. In a letter dated July 8, 2014, counsel requested

¹ On April 30, 2013 appellant, a city carrier, filed a traumatic injury claim alleging that on that date she sustained a muscle strain or pull due to lifting, pushing, and pulling at work. The employing establishment controverted the claim and noted that she "admits she has no idea when this happened." By decision dated June 25, 2013, OWCP denied appellant's claim finding that the evidence did not demonstrate that a specific event, incident, or exposure occurred at the time, place, and in the manner alleged. It noted that she alleged that she did a lot of lifting, pushing, and pulling but she did not explain how her injury occurred. By decision dated November 21, 2013, an OWCP hearing representative affirmed the June 25, 2013 decision.

² 41 ECAB 548 (1990).

reconsideration and submitted additional evidence that included a May 28, 2014 report from a physician. Appellant also provided an undated statement received on that date in which she provided additional factual information about her job duties. In its August 7, 2014 decision, OWCP denied her reconsideration request on the grounds that the evidence was not sufficient to modify the November 21, 2013 decision.

The Board finds that OWCP, in its August 7, 2014 decision, did not review the undated statement from appellant describing her job duties which was received on July 8, 2014. OWCP specifically noted that the evidence received from appellant included counsel's letter dated July 8, 2014 and a May 28, 2014 report from a physician. It explained that she failed to respond to OWCP's May 15, 2013 request for additional information and her claim was denied. However, appellant provided additional factual information relevant to her duties in statement received on July 8, 2014 but OWCP did not consider this evidence. 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 August 7, 2014 decision. Following such further development as OWCP deems necessary, it shall issue an appropriate merit decision on the claim.

IT IS HEREBY ORDERED THAT the August 7, 2014 decision of OWCP is set aside. The case record is remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: March 11, 2015
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