

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

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**Y.C., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Philadelphia, PA, Employer**

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**Docket No. 15-1302  
Issued: October 8, 2015**

*Appearances:*  
*Thomas R. Uliase, Esq., for the appellant*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**ORDER REMANDING CASE**

Before:

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

On May 22, 2015 appellant, through counsel, filed an application for review of a March 19, 2015 decision of the Office of Workers' Compensation Programs (OWCP), which denied modification of a loss of wage-earning capacity (LWEC) determination dated August 15, 2011.

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*,<sup>1</sup> 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. On April 14, 2014 OWCP denied appellant's reconsideration request as it was untimely filed and did not show clear evidence of error. Appellant appealed and the Board, in a November 21, 2014 decision,<sup>2</sup> set aside OWCP's decision finding that she had requested modification of an August 15, 2011 LWEC determination and was entitled to a merit review. Evidence submitted by appellant in support of her claim included a November 18,

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<sup>1</sup> 41 ECAB 548 (1990).

<sup>2</sup> Docket No. 14-1605 (issued November 21, 2014).

2014 report from Dr. Steven J. Valentino, a Board-certified orthopedic surgeon, and a December 11, 2014 report from Dr. Scott M. Fried, a Board-certified orthopedic surgeon. Dr. Fried submitted follow-up reports dated on February 10 and 12, 2015. These reports were received by OWCP on December 1 and 15, 2014 and February 5, 17, and 23, 2015. In its March 19, 2015 decision, OWCP denied modification of the LWEC determination August 15, 2011 as the evidence presented was not sufficient to warrant modification. It noted receipt of “various treatment notes” but it did not note receipt or consideration of the above referenced reports from Dr. Valentino and Dr. Fried.

The Board finds that OWCP, in its March 19, 2015 decision, had not reviewed all the medical evidence.<sup>3</sup> 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 March 19, 2015 decision. Following such further development as OWCP deems necessary, it shall issue an appropriate merit decision on the claim.

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<sup>3</sup> See *Linda Johnson*, 45 ECAB 439, 440 (1994) (where the Board held that it is necessary that OWCP review all evidence submitted by a claimant and received by OWCP prior to issuance of its final decision).

**IT IS HEREBY ORDERED THAT** the March 19, 2015 decision of the Office of Workers' Compensation Programs set aside. The case recorded is remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: October 8, 2015  
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board