



a shelf in a patient's room on August 19, 2014. She indicated that she was taken by ambulance to an emergency room. Appellant stopped work on August 19, 2014 and returned to work on August 21, 2014.

By letter to appellant dated January 20, 2015, OWCP advised appellant that it required additional factual and medical evidence to determine whether she was eligible for compensation benefits. It asked her to submit a comprehensive medical report from her treating physician describing her symptoms and a medical opinion explaining the cause of any diagnosed condition.

In an August 19, 2014 report, received by OWCP on February 23, 2015, Dr. Khanh D. Nguyen, Board-certified in neurology, indicated that appellant was treated at the emergency room on August 19, 2014. The report stated that she was taken to the hospital by ambulance after sustaining a head injury at work. Dr. Nguyen related that appellant bumped the top of her head on a shelf and was experiencing pain which rated a three or four on a scale of one to ten. He diagnosed a closed head injury.

By decision dated February 23, 2015, OWCP denied the claim, finding that appellant failed to provide medical evidence sufficient to establish that she sustained an injury causally related to the alleged employment incident. It noted that she had not submitted any medical evidence.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>2</sup> has the burden of establishing that the essential elements of his or her claim including the fact that the individual is an “employee of the United States” within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA, that an injury was sustained in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.<sup>3</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>4</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a “fact of injury” has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged.<sup>5</sup> Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>6</sup>

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<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>4</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>5</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>6</sup> *Id.* For a definition of the term “injury,” see 20 C.F.R. § 10.5(e)(e).

In the case of *William A. Couch*,<sup>7</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.

### ANALYSIS

The Board has reviewed this appeal and remands the case to OWCP to properly consider appellant's request for reconsideration and all the evidence submitted prior to the issuance of the February 23, 2015 decision. In *Couch*<sup>8</sup> the Board held that OWCP is obligated to consider all evidence submitted by a claimant and received by OWCP before the final decision is issued. While OWCP is not required to list every piece of evidence submitted to the record, the record is clear that it received the August 19, 2014 report from Dr. Nguyen on February 23, 2015. OWCP, however, incorrectly stated in its February 23, 2015 decision that it did not receive any medical evidence from appellant subsequent to mailing her its January 20, 2015 developmental letter. Accordingly, it appears that OWCP in its February 23, 2015 decision did not adequately or thoroughly review all of the medical evidence.

The Board notes that, on appeal, appellant asserts that she only wants to have her ambulance bill paid. However, the issue of payment of emergency medical expenses was not decided by OWCP and it is therefore not before the Board.<sup>9</sup> Appellant must raise the issue of payment of her ambulance bill for consideration by OWCP first. She would then have the right to appeal a decision on that issue, if necessary, to the Board.

Following further development as OWCP deems necessary, it shall issue an appropriate decision.

### CONCLUSION

The Board finds that the case is not in posture for decision. The case is remanded for further review of the medical evidence.

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<sup>7</sup> 41 ECAB 548 (1990).

<sup>8</sup> *Id.*

<sup>9</sup> There are provisions for payment of certain emergency expenses on a case-by-case basis. 20 C.F.R. § 10.204; Federal (FECA) Procedure Manual, Part 3 -- Medical, *Authorizing Examination and Treatment*, Chapter 3.300(3)(a)(1)(3).

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 23, 2015 decision of the Office of Workers' Compensation Programs be set aside and the case remanded to OWCP for further action consistent with this decision of the Board.

Issued: October 2, 2015  
Washington, DC

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

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board