

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

N.A., Appellant)

and)

DEPARTMENT OF HOMELAND SECURITY,)
CUSTOMS & BORDER PROTECTION,)
Calexico, CA, Employer)

Docket No. 16-1298
Issued: December 1, 2016

Appearances:
Appellant, pro se
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 June 14, 2016 appellant filed an application for review of a May 5, 2016 decision of the Office of Workers' Compensation Programs (OWCP), which denied appellant's claim for an emotional condition.

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 OWCP's April 5, 2016 letter to appellant requesting additional evidence, including a detailed description of the work incidents that contributed to her claimed emotional condition, appellant submitted responsive factual and medical evidence. This responds to the April 5, 2016 OWCP questionnaire. In a May 5, 2016 statement, appellant addressed the particular matters at the employing establishment that gave rise to her claim. She also submitted medical reports from Dr. Jorge F. Robles dated March 8 to April 20, 2016, who treated appellant for stress and diagnosed anxiety disorder caused by harassment from her supervisors. These reports were received by OWCP on May 5, 2016. In its May 5, 2016 decision, OWCP denied appellant's

¹ 41 ECAB 548 (1990).

claim for an emotional condition as appellant had not established that the alleged events occurred, noting that she had not responded to the April 5, 2016 development letter and questionnaire. It noted receiving an April 20, 2016 report from Dr. Robles, but indicated that the medical evidence submitted did not contain diagnoses. OWCP did not note receipt or consideration of appellant's response to OWCP's questionnaire or medical reports from Dr. Robles dated March 8 to 22, 2016.

The Board finds that OWCP, in its May 5, 2016 decision, did not review appellant's response to the questionnaire or the medical reports from Dr. Robles received on May 5, 2016.² 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 May 5, 2016 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 May 5, 2016 decision of the Office of Workers' Compensation Programs set aside. The case is remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: December 1, 2016
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

² *Supra* note 1. See *Linda Johnson*, 45 ECAB 439 (1994) (where the case was remanded for consideration of the evidence received the same day as the issuance of OWCP's decision).