

referral to an impartial medical examiner in order to resolve the conflict pursuant to section 8123(a) of FECA. The facts of the case as set forth in the prior decision are incorporated herein by reference.

Subsequent to the Board's decision, OWCP informed appellant in letters dated March 11 and December 4, 2014 that the record suggested that she sought medical treatment from Dr. Thomas Corcoran, a Board-certified orthopedic surgeon, in January 2008 when she first began to experience lower back and left hip pain, but the record did not contain any medical reports from Dr. Corcoran. OWCP requested that appellant provide any medical reports from Dr. Corcoran because such medical records were relevant to the determination of whether appellant was unable to work beginning September 12, 2008.

On December 9, 2014 appellant's attorney, Richard Daniels, noted that he would make every effort to obtain the records from Dr. Corcoran as requested. No additional medical evidence was received.

In decisions dated April 17, 2014³ and February 5, 2015, OWCP denied appellant's claim. It determined that it would not refer appellant's case for a referee medical examination as the record did not contain all relevant medical records, specifically Dr. Corcoran's 2008 medical reports. OWCP denied appellant's claim finding insufficient medical evidence to establish that appellant was unable to work beginning September 10, 2008 causally related to appellant's accepted conditions.

The Board has duly considered the matter and finds this case is not in posture for decision as OWCP did not comply with the Board's November 15, 2013 decision. The Board found that a conflict in medical opinion existed regarding whether appellant's disability beginning September 10, 2008 was causally related to her accepted conditions and remanded the case for referral for a referee medical examination. OWCP, however, did not comply with the Board's decision to obtain a report by a referee medical examiner as to whether appellant was disabled from work beginning September 10, 2008.⁴ As a conflict in medical evidence still exists, the case will be remanded to OWCP to prepare a statement of accepted facts based upon the evidence available in the record and refer appellant's case to an appropriate physician to examine her and evaluate the evidence in order to resolve the conflict in medical opinion evidence pursuant to section 8123(a) of FECA. Following this and any other development deemed necessary, OWCP will issue a *de novo* decision on the merits.

³ On April 28, 2014 OWCP received appellant's request, through her attorney, for a hearing. In a decision dated October 8, 2014, an OWCP hearing representative set aside the April 17, 2014 denial decision and remanded the case for referral to a referee medical examiner as directed by the Board in its November 15, 2013 decision.

⁴ See *A.C.*, Docket No. 12-402 (issued June 26, 2012).

IT IS HEREBY ORDERED THAT the February 5, 2015 decision of the Office of Workers' Compensation Programs is set aside and the case remanded for further development consistent with this order of the Board.

Issued: May 16, 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