

medically necessary. Dr. Shade continued to request authorization for the bed. In a June 11, 2014 decision, OWCP denied authorization for the requested bed and mattress. After a timely hearing request, on December 17, 2014 an OWCP hearing representative found a conflict in medical evidence between Dr. Shade and Dr. Blum and remanded the case to OWCP to obtain an impartial evaluation regarding the need for the recommended bed/mattress. OWCP referred appellant to Dr. Dale R. Allen, a Board-certified orthopedic surgeon, for an impartial evaluation. In a June 11, 2015 report, Dr. Allen opined that, while the requested items would give appellant some subjective pain relief, it would not be considered likely to cure or lessen his need for compensation or give him any long-term benefit or relief of the symptoms caused by the work-related injury. In a November 12, 2015 decision, OWCP denied authorization for the Ergo adjustable base bed with Tempur-pedic mattress and pillow.

After a timely hearing request, a hearing was held on March 17, 2016. The hearing transcript indicates that appellant submitted a February 25, 2016 letter of medical necessity from Dr. Shade which the hearing representative indicated was being placed in the record as Exhibit 1. The hearing representative and appellant discussed the report at the hearing. By decision dated May 13, 2016, an OWCP hearing representative affirmed the November 12, 2015 decision. She discussed both Dr. Allen's June 11, 2015 report and the report of Dr. Shade dated February 25, 2016, submitted by appellant at the March 17, 2016 hearing. The hearing representative specifically described elements of Dr. Shade's report.

The Board finds that the case is not in posture for decision. Pursuant to 20 C.F.R. § 501.2(c)(1), the Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Decisions on claims are based on the written record, which may include forms, reports, letters, and other evidence of various types such as photographs, videotapes or drawings.³ Evidence may not be incorporated by reference, and evidence from another claimant's case file may not be used.⁴ All evidence that forms the basis of a decision must be in that claimant's case record.⁵

The hearing representative's May 13, 2016 decision referenced a February 25, 2016 letter of medical necessity that appellant submitted at the March 17, 2016 hearing and was placed into evidence by OWCP's hearing representative as Exhibit 1. She relied on this medical evidence in denying appellant's request for authorization of the requested items. This report is not found in the case record before the Board in this appeal. Due to this oversight, the Board is not in a position to make an informed decision regarding appellant's request for authorization.⁶

As the record lacks sufficient evidence for the Board to render an informed decision, the case shall be remanded to OWCP for further development. As noted, all evidence that forms the

³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.5a (June 2011).

⁴ *Id.*

⁵ *Id.*

⁶ *See L.W.*, Docket No. 17-0526 (issued May 12, 2017).

basis of a decision must be included in the case record.⁷ After OWCP has developed the record consistent with the above-noted directive, it shall issue a *de novo* decision regarding appellant's request for authorization of an Ergo adjustable bed base with Tempur-pedic mattress and pillow.

IT IS HEREBY ORDERED THAT the May 13, 2016 decision of the Office of Workers' Compensation Programs is set aside and the case remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: October 26, 2017
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

⁷ *Supra* note 3.