

sprain of ligaments of lumbar spine, congenital Factor VII disorder, and transient synovitis of the left knee as causally related to the accepted November 8, 2016 employment incident.

By letter received on April 27, 2017 appellant, through counsel, requested an oral hearing before an OWCP hearing representative. A hearing was held on October 4, 2017. Counsel argued that appellant was a hemophiliac who sustained hemarthrosis as a result of his work-related injury. Appellant testified that he had right knee arthritis prior to his injury and was hospitalized for four days following the employment incident. He further stated that his right knee injury was causing him to favor his left side, resulting in a left knee injury. Counsel argued that the medical reports provided a consistent history of a right knee injury and that a bone contusion, hemarthrosis, and lumbar sprain should be accepted as part of the claim as indicated in the December 1, 2016 report from Dr. Arup K. Bhadra, a Board-certified orthopedic surgeon.

By decision dated November 27, 2017, OWCP's hearing representative affirmed the April 17, 2017 decision, finding that the medical evidence of record failed to establish a consequential left knee injury or the conditions of left foot pes planus, acquired left flat foot (pes planus), left ankle joint primary localized osteoarthritis talocalcaneal, left ankle localized tibiotalar joint osteoarthritis, lumbar spine ligaments sprain, congenital Factor VII disorder, and transient synovitis of the left knee as causally related to the accepted November 8, 2016 employment incident.

Having reviewed the case record submitted by OWCP, the Board finds that this case is not in posture for decision.²

The Board notes that in the November 27, 2017 decision, the hearing representative only discussed Dr. Bhadra's reports dated December 1, 2016 through August 30, 2017, but failed to reference the other medical reports of record.³ The record reflects that appellant submitted medical reports dated November 16, 2016 through October 11, 2017 from Dr. Bhadra. Appellant also submitted numerous other medical reports including emergency department reports and diagnostic testing dated November 8 through 10, 2016, a November 15, 2016 report from Dr. Andrew Goodwillie, a Board-certified orthopedic surgeon, a November 15, 2016 report from Dr. Suchitra S. Acharya, a hematologist, December 22, 2016 report from Dr. Jay Levine, a podiatrist, a February 24, 2017 diagnostic report from Dr. Joshua Hodman, a Board-certified diagnostic radiologist, and medical reports dated March 1 through October 16, 2017 from Dr. Gottlieb. As the hearing representative did not note receipt or consideration of the relevant medical reports of record, it failed to follow its own procedures.⁴ OWCP did not discharge its responsibility to set forth findings of fact and a clear statement of reasons explaining the disposition so that appellant could understand the basis for the decision, as well as the precise defect and the evidence needed to overcome the denial of his traumatic injury claim.⁵

² *J.J.*, Docket No. 13-1666 (issued August 18, 2014).

³ *D.D.*, Docket No. 15-1403 (issued March 10, 2016).

⁴ All evidence submitted should be reviewed and discussed in the decision. Evidence received following development that lacks probative value should also be acknowledged. Whenever possible, the evidence should be referenced by author and date. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Denials*, Chapter 2.1401.5(b)(2) (November 2012).

⁵ *K.J.*, Docket No. 14-1874 (issued February 26, 2015). *See also J.J.*, Docket No. 11-1958 (issued June 27, 2012).

As the Board's decisions are final as to the subject matter appealed, it is crucial that all evidence relevant to the subject matter of the claim which was properly submitted to OWCP prior to the issuance of its final decision be reviewed and addressed by OWCP.⁶ While OWCP is not required to list every piece of evidence submitted to the record, the Board finds that medical reports submitted were not considered or reviewed before the issuance of its November 27, 2017 decision.⁷ Because OWCP failed to consider all of the relevant medical reports of record, the Board cannot review such evidence for the first time on appeal.⁸

For these reasons, the case will be remanded to OWCP to enable it to properly consider all of the evidence.⁹ Following such further development as it deems necessary, OWCP shall issue an appropriate merit decision.

IT IS HEREBY ORDERED THAT the November 27, 2017 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further development consistent with this order.

Issued: April 12, 2019
Washington, DC

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

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

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

⁶ See *Yvette N. Davis*, 55 ECAB 475 (2004); see also *William A. Couch*, 41 ECAB 548 (1990) (OWCP did not consider new evidence received four days prior to the date of its decision); see *Linda Johnson*, 45 ECAB 439 (1994) (applying *Couch* where OWCP did not consider a medical report received on the date of its decision).

⁷ *B.S.*, Docket No. 16-0352 (issued April 14, 2016).

⁸ 20 C.F.R. § 501.2(c).

⁹ *K.N.*, Docket No. 17-0771 (issued August 9, 2018).