

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

E.A., Appellant	)	
	)	
and	)	<b>Docket No. 19-0325</b>
	)	<b>Issued: November 5, 2019</b>
DEPARTMENT OF THE TREASURY,	)	
INTERNAL REVENUE SERVICE,	)	
Richmond, VA, Employer	)	
	)	

*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  
JANICE B. ASKIN, Judge

On November 26, 2018 appellant filed a timely appeal from an October 17, 2018 decision of the Office of Workers' Compensation Programs (OWCP).<sup>1</sup> The Clerk of the Appellate Boards assigned Docket No. 19-0325.

On October 15, 2014 appellant, then a 42-year-old tax examiner, filed an occupational disease claim (Form CA-2) alleging that she developed bilateral carpal tunnel syndrome as a result of over 23 years of repetitive employment duties including typing. She submitted medical reports beginning September 17, 2014 and continuing in support of her claim. Appellant underwent bilateral carpal tunnel release on November 16, 2015.

By decision dated June 29, 2017, it accepted the claim for bilateral carpal tunnel syndrome.

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<sup>1</sup> The Board notes that following the October 17, 2018 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "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. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this evidence for the first time on appeal. *Id.*

On August 22, 2017 appellant filed claims for compensation (Form CA-7) for leave without pay beginning August 25, 2014 through July 9, 2017. In support of her claims she submitted medical reports and forms dated June 9, 2014 through July 13, 2017 as well as a September 18, 2017 report from Dr. Joel Cone, a treating chiropractor.

By decision dated November 21, 2017, OWCP denied appellant's claims for wage-loss compensation for the period August 25, 2014 through July 9, 2017, finding that the medical evidence of record failed to establish that she was disabled as a result of her accepted bilateral carpal tunnel syndrome. It noted that the only evidence received was the September 18, 2017 report from her chiropractor.

On May 7, 2018 appellant requested reconsideration of the November 21, 2017 OWCP decision. In support of her claim, she submitted medical reports and notes dated December 14, 2017 through September 12, 2018.

By decision dated October 17, 2018, OWCP affirmed the November 21, 2017 decision, finding that the medical evidence of record was insufficient to establish disability for the period August 25, 2014 through July 9, 2017. It noted its review of medical reports dated December 14, 2017 through June 1, 2018.

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

In its October 17, 2018 decision, OWCP denied appellant's claim for compensation based on medical reports dated December 14, 2017 through June 1, 2018. The Board finds that OWCP failed to review all of the relevant medical evidence and made no reference to the older medical reports of record which appellant had submitted from the initial filing of her claim. The record reflects that appellant filed her occupational disease claim on October 15, 2014 and stopped work as a result of her bilateral wrist condition. However, OWCP did not accept the claim for bilateral carpal tunnel syndrome until June 29, 2017, almost three years later. The medical evidence of record submitted at the time of the initial filing of the claim dating back to September 17, 2014 and continuing is relevant and contemporaneous with the claimed period of disability for the period August 25, 2014 through July 9, 2017.

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 time of issuance of its final decision be reviewed and addressed by OWCP.<sup>2</sup> 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.<sup>3</sup>

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<sup>2</sup> See *S.K.*, Docket No. 18-0478 (issued January 2, 2019); *Yvette N. Davis*, 55 ECAB 475 (2004); see also *Linda Johnson*, 45 ECAB 439 (1994) (applying *Couch* where OWCP did not consider a medical report received on the date of its decision).

<sup>3</sup> 20 C.F.R. § 501.2(c). See also *G.M.*, Docket No. 16-1766 (issued February 16, 2017).

For these reasons, the case will be remanded to OWCP for proper consideration of all of the evidence of record.<sup>4</sup> Following such further development as it deems necessary, OWCP shall issue an appropriate merit decision.<sup>5</sup> Accordingly,

**IT IS HEREBY ORDERED THAT** the October 17, 2018 decision of the Office of Workers' Compensation Programs is set aside and the case remanded for proceedings consistent with this order of the Board.

Issued: November 5, 2019  
Washington, DC

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

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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<sup>4</sup> *M.J.*, Docket No. 18-0605 (issued April 12, 2019).

<sup>5</sup> *B.N.*, Docket No. 17-0787 (issued July 6, 2018).