

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

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**L.I., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Middleton, NY, Employer**  
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**Docket No. 19-0619  
Issued: February 19, 2020**

*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 January 22, 2019 appellant filed a timely appeal from July 23 and December 20, 2018 decisions of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 19-0619.<sup>1</sup>

On April 13, 2017 appellant, then a 43-year old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on that date she injured her neck and back when her mail truck was hit by another vehicle as she delivered mail while in the performance of duty. By decision dated July 23, 2018, OWCP accepted the claim for sprains of the cervical and lumbar areas of spine. It denied the claim, however, with regard to the additional conditions of cervical and lumbar radiculopathies, left shoulder impingement syndrome, cervical and lumbar herniated nucleus pulposus, and cervical, thoracic, and lumbar subluxations, finding that the evidence of record was insufficient to establish causal relationship.

<sup>1</sup> The Board notes that, following the December 20, 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 additional evidence for the first time on appeal. *Id.*

Appellant filed claims for wage-loss compensation (Form CA-7) for the period from May 29, 2017 to December 21, 2018.

By decision dated December 20, 2018, OWCP denied appellant's wage-loss compensation claim for the period May 29, 2017 and continuing as the medical evidence of record was insufficient to establish total disability from work due to the accepted conditions. It also denied modification of the July 23, 2018 decision as to the issue of claim expansion, finding that the medical evidence of record was insufficient to establish that the additional conditions claimed were work related.

The Board has duly considered the matter and finds that the case is not in posture for decision.

In the case of *William A. Couch*,<sup>2</sup> 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.

The Federal Employees' Compensation Act provides that OWCP shall determine and make findings of fact in making an award for or against payment of compensation after considering the claim presented by the employee and after completing such investigation as OWCP considers necessary with respect to the claim.<sup>3</sup> Since the Board's jurisdiction of a case is limited to reviewing that evidence which was before OWCP at the time of its final decision,<sup>4</sup> it is necessary that OWCP review all evidence submitted by a claimant and received by OWCP prior to issuance of its final decision. As the Board's decisions are final as to the subject matter appealed,<sup>5</sup> it is crucial that all evidence relevant to that subject matter which was properly submitted to OWCP prior to the time of issuance of its final decision be addressed by OWCP.<sup>7</sup>

The Board finds that OWCP did not review or address reports, dated April 7 and August 2 and 10, 2018, and disability certificates from Dr. Clifton Burt, a physical medicine and rehabilitation specialist; attending physician reports (Form CA-20) and duty status reports (Form CA-17) dated October 2, 2018 from Dr. Ravi Naik, a physician specializing in pain medicine and anesthesiology; or physical therapy notes covering the period from April 13, 2017 to August 21, 2018. In addition, OWCP failed to address whether appellant was entitled to wage-loss compensation benefits for her attendance at medical appointments during the claimed period.

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<sup>2</sup> 41 ECAB 548, 553 (1990); *see also R.P.*, Docket No. 19-0301 (issued August 21, 2019); *.K.L.*, Docket No. 16-1341 (issued December 20, 2016); *E.Z.*, Docket No. 14-274 (issued March 16, 2015); *Linda Johnson*, 45 ECAB 439 (1994).

<sup>3</sup> 5 U.S.C. § 8124(a)(2).

<sup>4</sup> 20 C.F.R. § 501.2(c).

<sup>5</sup> *Id.* at § 501.6(d).

For these reasons, the case will be remanded to OWCP for proper consideration of all the evidence of record at the time of the December 20, 2018 decision. Following such further development as OWCP deems necessary, it shall issue an appropriate decision on the claim.

**IT IS HEREBY ORDERED THAT** the December 20 and July 23, 2018 decisions of the Office of Workers' Compensation Programs are set aside and the case is remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: February 19, 2020  
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