



On April 3, 2018 OWCP issued a notice of proposed suspension based on appellant's failure to report for a medical examination scheduled for March 5, 2018.<sup>2</sup> By decision dated May 24, 2018, OWCP suspended appellant's medical benefits and compensation, effective May 26, 2018, for failure to report for scheduled medical examinations on February 7, March 5, and May 23, 2018. On June 20, 2018 appellant filed a request for an oral hearing before a representative of OWCP's Branch of Hearings and Review. By decision dated January 30, 2019, OWCP's hearing representative affirmed the suspension, noting that appellant had been advised in letters dated December 22, 2017<sup>3</sup> of a scheduled appointment on February 7, 2018 and that the appointment had been rescheduled to March 5, 2018 and to May 23, 2018.

The record submitted to the Board is incomplete. In its January 30, 2019 decision, OWCP's hearing representative discussed and relied upon letters referring appellant for a medical appointment. The record before the Board on appeal does not contain a December 22, 2017 letter scheduling a medical appointment on February 7, 2018 or a letter scheduling a medical appointment on March 5, 2018. In light of OWCP's reliance on this evidence, the Board finds that the case is not in posture for decision.

Section 501.2(c) of the Board's *Rules of Procedure*<sup>4</sup> provides that the Board has jurisdiction to consider and decide appeals from the final decision of OWCP in cases arising under the Federal Employees' Compensation Act.<sup>5</sup> Because the record as transmitted to the Board does not contain evidence that OWCP relied upon in reaching a final decision, which includes letters referring appellant for medical appointments scheduled for February 7 and March 5, 2018, it is incomplete and would not permit an informed adjudication of the case.<sup>6</sup> The Board will, therefore, remand the case to OWCP for reconstruction and proper assemblage of the record to include the letters referring appellant for medical appointments scheduled for February 7 and March 5, 2018.<sup>7</sup> After such further development as deemed necessary, OWCP shall issue a *de novo* decision on whether OWCP properly suspended appellant's wage-loss compensation and medical benefits pursuant to 5 U.S.C. § 8123(d), due to his failure to attend scheduled medical examinations.

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<sup>2</sup> OWCP attached e-mail correspondence, dated January 10 and March 5, 2018, regarding scheduled medical appointments for February 7 and March 5, 2018.

<sup>3</sup> The December 22, 2017 letter referred to by OWCP's hearing representative does not include a physician's name, the date of the scheduled appointment, or the time.

<sup>4</sup> 20 C.F.R. § 501.2(c).

<sup>5</sup> 5 U.S.C. § 8101 *et seq.*

<sup>6</sup> *See M.B.*, Docket No. 18-1290 (issued August 13, 2019); *D.H.*, Docket No. 17-0224 (issued August 16, 2018).

<sup>7</sup> *Id.*; *W.M.*, Docket No. 17-1667 (issued October 1, 2018).

**IT IS HEREBY ORDERED THAT** the January 30, 2019 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this order of the Board.

Issued: May 26, 2020  
Washington, DC

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

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

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board