

On July 30, 2018 appellant filed a claim for compensation (Form CA-7) for leave without pay (LWOP) claiming wage-loss compensation for the period from July 30 to August 9, 2018.²

In an August 28, 2018 letter, OWCP's selected physician, Dr. James Caviness, Board-certified in preventive medicine, informed appellant's attending physician, Dr. David Robinson, an osteopath specializing in family practice, that his August 9, 2018 report indicated that appellant's physical examination revealed normal results and that appellant ambulated properly and thus, he did not understand why appellant currently remained off of work. Dr. Caviness requested that Dr. Robinson elaborate on his rationale for appellant's total disability status and asked that he consider recommending light or sedentary duty based on objective findings. He added that he agreed that appellant's workplace injury may have aggravated appellant's preexisting metatarsophalangeal joint osteoarthritis and; therefore, he would recommend the authorization of the referral to a podiatrist.

Dr. Robinson responded to Dr. Caviness, in a September 7, 2018 letter, and noted that he was having a difficult time getting authorization from OWCP for diagnostic imaging necessary to determine if appellant required further care. He indicated that appellant continued to experience right foot neuritis, ankle pain, shoulder pain, right shoulder impingement, and pain in his metatarsophalangeal joint which was possibly secondary degenerative joint disease. Dr. Robinson explained that, despite that OWCP would not authorize a referral to a podiatrist or orthopedist to conduct examinations to determine if there were additional conditions caused by the claimed employment injury. Dr. Robinson additionally indicated that appellant was also unable to return to him for further treatment because OWCP refused to approve the visit. He opined that appellant still suffered from right shoulder impingement syndrome and right foot neuritis that was caused by either tarsal tunnel syndrome or radiculopathy from the lumbar area secondary to his fall. Dr. Robinson concluded that appellant could perform light duty, such as answering the telephone or sitting for no longer than 45 minutes without a break, but could not participate in law enforcement activities or engage in heavy lifting.

On May 3, 2019 OWCP accepted appellant's claim for impingement syndrome of the right shoulder and an aggravation of primary osteoarthritis of the left ankle and foot.

In a June 27, 2019 development letter, OWCP informed appellant that the documentation received to date was insufficient to establish his claim for compensation for the period July 30, 2018 through June 2, 2019. It advised him that he should provide the second opinion report from his case record to his treating physician for concurrence regarding his ability to work with restrictions during the claimed period of disability. OWCP afforded appellant 30 days to submit the necessary evidence.

By decision dated September 17, 2019, OWCP denied appellant's compensation claim, finding that the evidence of record was insufficient to establish that he was disabled for work for the period July 30 2018 and continuing due to his accepted conditions. It noted receipt of specific

² OWCP continued to receive CA-7 forms claiming compensation for LWOP for disability through September 7, 2018.

medical reports, but did not indicate receipt or review of the correspondence between Drs. Caviness and Robinson.

On September 24, 2019 appellant requested reconsideration.

By decision dated October 11, 2019, OWCP denied modification of its September 17, 2019 decision. It again did not acknowledge receipt of the August 28, 2018 report from Dr. Caviness or the September 7, 2018 report from Dr. Robinson.

The Board has duly considered the matter and finds that the case is not in posture for a decision. In the case of *William A. Couch*,³ 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.

OWCP's September 17 and October 11, 2019 decisions did not reference or address the August 28, 2018 correspondence from Dr. Caviness to Dr. Robinson, or Dr. Robinson's September 7, 2018 response to Dr. Caviness, which directly addressed the question of why he considered appellant totally disabled for work during the period in question.

It is crucial that OWCP address all relevant evidence received prior to the issuance of its final decision, as the Board's decisions are final with regard to the subject matter appealed.⁴ The Board finds that this case is not in posture for decision, as OWCP did not address the above-noted evidence in its September 17 and October 11, 2019 decisions.⁵ On remand OWCP shall review all evidence of record and, following any further development as it deems necessary, it shall issue a *de novo* decision.

³ 41 ECAB 548 (1990); *see also R.D.*, Docket No. 17-1818 (issued April 3, 2018).

⁴ *See C.S.*, Docket No. 18-1760 (issued November 25, 2019); *Yvette N. Davis*, 55 ECAB 475 (2004); *see also William A. Couch, id.*

⁵ *See V.C.*, Docket No. 16-0694 (issued August 19, 2016).

IT IS HEREBY ORDERED THAT the October 11 and September 17, 2019 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: October 16, 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