

<sup>1</sup> The Board notes that, following the June 4, 2021 decision, appellant submitted additional evidence to OWCP. 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.*

In a May 3, 2021 development letter, OWCP informed appellant that the evidence of record was insufficient to establish his claim. It advised him of the type of factual and medical evidence needed and provided a questionnaire for his completion. In a separate development letter of even date, OWCP requested that the employing establishment provide additional information about the alleged employment incident. It afforded both parties 30 days to respond.

On May 10, 2021 the employing establishment responded to OWCP's development questionnaire, indicating that moving items such as bookcases was "incidental at times to the duties [appellant] performs."

On June 3, 2021 appellant submitted medical reports dated May 17 and 24, 2021 by Dr. Aaron Lirette, a Board-certified physician, specializing in occupational medicine. Dr. Lirette noted appellant's description of the alleged employment incident and diagnosed sprains of the sternoclavicular joint and an unspecified acromioclavicular (AC) joint. In a May 17, 2021 duty status report (Form CA-17), he diagnosed AC joint pain, sternoclavicular joint pain and advised appellant could return to work with restrictions.

By decision dated June 4, 2021, OWCP denied appellant's traumatic injury claim, finding that he had not submitted the necessary medical evidence. It found that appellant failed to provide medical evidence from a physician containing a medical diagnosis in connection with the employment incident. Therefore, OWCP concluded that the requirements had not been met to establish that he sustained an injury as defined by FECA.

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. While OWCP is not required to list every piece of evidence submitted to the record, there is no indication that Dr. Lirette's May 17 and 24, 2021 notes were reviewed by OWCP in its June 4, 2021 decision.<sup>3</sup>

As the Board's decisions are final with regard to the subject matter appealed,<sup>4</sup> 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>5</sup> Because OWCP failed to consider all of the medical evidence submitted by appellant, the Board cannot review such evidence for the first time on appeal.<sup>6</sup>

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<sup>2</sup> 41 ECAB 548 (1990); *see also R.D.*, Docket No. 17-1818 (issued April 3, 2018).

<sup>3</sup> *See T.G.*, Docket No. 19-1930 (issued January 8, 2021).

<sup>4</sup> *See* 20 C.F.R. § 501.6(d).

<sup>5</sup> *See S.K.*, Docket No. 18-0478 (issued January 2, 2019); *Yvette N. Davis*, 55 ECAB 475 (2004); *see also William A. Couch*, *supra* note 2.

<sup>6</sup> 20 C.F.R. § 501.2(c)(1). *See also G.M.*, Docket No. 16-1766 (issued February 16, 2017),

For this reason, the case will be remanded to OWCP to properly consider all of the evidence of record.<sup>7</sup> Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.<sup>8</sup> Accordingly,

**IT IS HEREBY ORDERED THAT** the June 4, 2021 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: December 27, 2021  
Washington, DC

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge  
Employees' Compensation Appeals Board

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

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<sup>7</sup> See *M.J.*, Docket No. 18-0605 (issued April 12, 2019).

<sup>8</sup> *B.N.*, Docket No. 17-0787 (issued July 6, 2018).