

indicated that he first became aware of his condition and realized that his condition was caused or aggravated by his federal employment on February 22, 2008. On the reverse side of the claim form, the employing establishment indicated that appellant stopped work on March 23, 2008 and returned to work on June 28, 2008 with restrictions. OWCP accepted the claim for a temporary aggravation of preexisting right foot pes planus (flat foot) and aggravation of right talar neck fracture. It paid appellant wage-loss compensation on the supplemental rolls commencing April 26, 2008 and on the periodic rolls commencing June 7, 2009. On May 1, 2013 OWCP terminated his wage-loss compensation and medical benefits.

On May 30, 2018 appellant filed a claim for compensation (Form CA-7) for a schedule award.

In a development letter dated June 12, 2018, OWCP informed appellant that additional evidence was needed in support of his claim, and afforded him 30 days to submit the necessary evidence. No additional evidence was received.

By decision dated July 19, 2018, OWCP denied appellant's schedule award claim, finding that the evidence of record was insufficient to establish a permanent impairment of a scheduled member due to his accepted employment injury.

On July 27, 2018 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. On December 11, 2018 an OWCP hearing representative conducted an oral hearing. By decision dated February 15, 2019, an OWCP hearing representative affirmed OWCP's July 19, 2018 decision.

On May 6, 2019 appellant, through counsel, requested reconsideration. By decision dated May 13, 2019, OWCP denied appellant's reconsideration request.

On March 9, 2020 appellant, through counsel, again filed a claim for a schedule award (Form CA-7). Appellant attached a February 13, 2020 narrative medical report from Dr. Robert Macht, a general surgeon, who reviewed appellant's history of injury, conducted a physical examination, and used the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment (A.M.A., Guides)*³ to determine that appellant sustained a 32 percent permanent impairment of his right lower extremity. Dr. Macht also related that appellant had reached MMI on February 6, 2020.

In a development letter dated March 13, 2020, OWCP informed appellant that additional evidence was needed in support of his claim, and provided him 30 days to submit the requested evidence.

On April 1, 2020 OWCP sent appellant's medical records and a statement of accepted facts (SOAF) to a district medical adviser (DMA) to review for schedule award purposes.

³ A.M.A., *Guides* (6th ed. 2009).

On April 28, 2020 OWCP received an April 11, 2020 medical report from Dr. Arthur Harris, a Board-certified orthopedic surgeon serving as OWCP's DMA. Dr. Harris concluded that appellant had 33 percent permanent impairment of his right lower extremity.

By decision dated April 29, 2020, OWCP denied appellant's reconsideration request.⁴ It did not reference or address the report of Dr. Macht's February 13, 2020 report, or the DMA's report dated April 11, 2020.

The Board has duly considered the matter and finds that the case is not in posture for decision and must be remanded to OWCP. In the case of *William A. Couch*,⁵ 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.

In its April 29, 2020 decision, OWCP failed to consider the February 13, 2020 report from Dr. Macht and the April 11, 2020 report from the DMA. Whether OWCP receives relevant evidence on the date of the decision or days before, such evidence must be considered.⁶

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 properly submitted to OWCP be reviewed and addressed.⁷ For this reason, the case will be remanded to OWCP to enable it to properly consider all the evidence submitted at the time of the April 29, 2020 decision. Following such further development as OWCP deems necessary, it shall issue a *de novo* decision on the claim. Accordingly,

⁴ *Supra* note 2.

⁵ 41 ECAB 548 (1990); *T.G.*, Docket No. 19-1930 (issued January 8, 2021).

⁶ *See G.A.*, Docket No. 19-1080 (issued January 2, 2020); *T.J.*, Docket No. 14-1854 (issued February 3, 2015); *J.J.*, Docket No. 12-1062 (issued December 12, 2012); *William McKennon*, 51 ECAB 145 (1999); *Linda Johnson*, 45 ECAB 439 (1994) (applying *Couch* where OWCP did not consider a medical report received on the date of its decision).

⁷ *See C.S.*, Docket No. 18-1760 (issued November 25, 2019); *Yvette N. Davis*, 55 ECAB 475 (2004).

IT IS HEREBY ORDERED THAT the April 29, 2020 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: March 1, 2021
Washington, DC

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

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

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