

Appellant stated that he immediately informed his supervisor and gave her the box before washing the wound and going to the emergency room.

An unsigned emergency department after visit summary dated September 4, 2021 indicated that appellant was seen by Stephanie Conte, a physician assistant, who provided treatment for needlestick injuries due to exposure to bodily fluid. Appellant was prescribed prophylactic treatment for human immunodeficiency virus (HIV), hepatitis B virus (HBV), and hepatitis C virus (HCV). He also received a tetanus, diphtheria, and pertussis (TDAP) vaccine and underwent laboratory testing for HIV and hepatitis. The form noted diagnoses of work-related injury and exposure to body fluids by contaminated hypodermic needle stick.

In a work excuse note of even date, Ms. Conte noted that appellant was seen and treated in the emergency department on that date and could return to work on September 5, 2021.

In a development letter dated September 30, 2021, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed and provided a questionnaire for his completion. OWCP afforded appellant 30 days to submit the necessary evidence.

Appellant subsequently submitted a September 17, 2021 medical report from Alexei Pouzakov, a physician assistant, related appellant's history of injury and noted that appellant's major job functions included taking care of hazmat, distributing flat tubes, and handling letter trays. Mr. Pouzakov noted that appellant's laboratory results for HIV, HBV, and HCV were negative. He noted that no wound was visualized, and that appellant was asymptomatic. Mr. Pouzakov diagnosed contact with and exposure to potentially hazardous body fluids.

In a September 17, 2021 form report, Dr. Jill Russom, a Board-certified family practitioner, related appellant's history of injury and treatment. She diagnosed exposure to a blood-borne pathogen and indicated that appellant was cleared to perform his usual work.

Appellant responded to OWCP's development questionnaire on October 5, 2021, further describing the claimed September 3, 2021 employment incident. He related that there were no witnesses to the incident, that he had not sustained any other injuries before reporting this injury to his supervisor or physician, and that he had no similar disability or symptoms prior to the September 3, 2021 employment incident.

On November 1, 2021 OWCP received a September 4, 2021 emergency department report, signed by Ms. Conte and countersigned by Dr. Scott Ford, a physician specializing in emergency medicine. Dr. Ford related appellant's history of injury and treatment, noting that he worked at a post office where individuals sent in used needles to be sent off and incinerated. Examination revealed a very small puncture to the medial right wrist. Dr. Ford diagnosed a work-related injury and exposure to body fluids by a contaminated hypodermic needle stick. By decision dated November 1, 2021, OWCP accepted that the September 3, 2021 employment incident occurred, as alleged, but denied the claim as appellant had not established a diagnosed medical condition in connection with the accepted employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA. In its decision, OWCP only referenced

appellant's September 7, 2021 statement, the unsigned September 4, 2021 after visit summary, and the reports from Mr. Pouzakov and Dr. Russom.

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

In the case of *William A. Couch*,² 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. As detailed above, OWCP received a September 4, 2021 emergency department report signed by Dr. Ford relating appellant's history of injury and containing a finding of a small puncture to the medial right wrist. Dr. Ford diagnosed a work-related injury and exposure to body fluids by a contaminated hypodermic needle stick. OWCP, however, did not review this evidence in its November 1, 2021 merit decision. It, thus, failed to follow its procedures by not considering all of the relevant evidence of record.³

As Board decisions are final with regard to the subject matter appealed, it is crucial that OWCP review and consider all relevant evidence received prior to the issuance of its final decision.⁴ On remand, OWCP shall review and consider all evidence properly submitted by appellant prior to the issuance of the November 1, 2021 OWCP decision. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.⁵

² 41 ECAB 548 (1990); *see also K.B.*, Docket No. 20-1320 (issued February 8, 2021); *R.D.*, Docket No. 17-1818 (issued April 3, 2018).

³ OWCP's procedures provide that all evidence submitted should be reviewed and discussed in the decision. Evidence received following development that lacks probative value also should be acknowledged. Whenever possible, the evidence should be referenced by author and date. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Denials*, Chapter 2.1401.5(b)(2) (November 2012).

⁴ *E.D.*, Docket No. 20-0620 (issued November 18, 2020); *see also L.B.*, Docket No. 21-0140 (issued August 25, 2021); *C.S.*, Docket No. 18-1760 (issued November 25, 2019); *Yvette N. Davis*, 55 ECAB 475 (2004); *William A. Couch*, *supra* note 2.

⁵ The Board notes that the employing establishment issued a Form CA-16, dated September 4, 2021. A completed Form CA-16 authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. *See* 20 C.F.R. § 10.300(c); *V.S.*, Docket No. 20-1034 (issued November 25, 2020); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).

IT IS HEREBY ORDERED THAT the November 1, 2021 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: August 19, 2022
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

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

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board