

**United States Department of Labor
Employees' Compensation Appeals Board**

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K.Y., Appellant)	
)	
and)	Docket No. 22-0743
)	Issued: December 1, 2022
U.S. POSTAL SERVICE, MOUNT PLEASANT POST OFFICE, Mount Pleasant, MI, Employer)	
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Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:
ALEC J. KOROMILAS, Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

On April 8, 2022 appellant filed a timely appeal from a February 17, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 22-0743.¹

On December 24, 2021 appellant, then a 59-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on December 20, 2021 she was involved in a motor vehicle accident (MVA) while in the performance of duty. She claimed that her back was very sore due to the MVA. On the reverse side of the claim form, appellant's supervisor acknowledged that appellant was injured in the performance of duty, but noted that the documentation did not specify any work restriction or excuse. Appellant stopped work on December 21, 2021.²

¹ The Board notes that, following the February 17, 2022 decision, appellant submitted additional evidence to OWCP and to the Board. 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.*

² Appellant also submitted a copy of the Form CA-1 dated December 29, 2021.

Appellant submitted evidence to OWCP. In a December 23, 2021 after visit summary, Dr. Amy R. Kuechenmeister, a Board-certified emergency medicine specialist, related that appellant was seen for a motor vehicle collision and underwent computerized tomography (CT) scans of the thoracic spine and cervical spine, as well as a CT angiogram of the head and neck. She diagnosed pulmonary nodule, MVA, and acute cervical strain and provided discharge instructions.

In a development letter dated January 12, 2022, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of evidence needed to establish her claim and provided a questionnaire for her completion. OWCP afforded appellant 30 days to submit the necessary evidence.

By decision dated February 17, 2022, OWCP denied appellant's traumatic injury claim, finding that she did not submit any medical evidence to establish a diagnosed medical condition causally related to the accepted December 20, 2021 employment incident. It concluded, therefore, that the requirements had not been met to establish 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*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. While OWCP is not required to list every piece of evidence submitted to the record, the record is clear that the December 23, 2021 after visit summary from Dr. Kuechenmeister was not referenced or reviewed by OWCP in its February 17, 2022 decision.⁴

It is crucial that OWCP addresses and considers all evidence received prior to the issuance of its final decision, as the Board's decisions are final with regard to the subject matter appealed.⁵ The Board finds that this case is not in posture for decision as OWCP did not review the above-noted evidence in its February 17, 2022 decision.⁶

On remand, OWCP shall review all evidence of record and, following this and any other such further development as deemed necessary, it shall issue a *de novo* decision.⁷ Accordingly,

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

⁴ *See J.N.*, Docket No. 21-0086 (issued May 17, 2021); *C.D.*, Docket No. 20-0168 (issued March 5, 2020).

⁵ *See C.S.*, Docket No. 18-1760 (issued November 25, 2019); *Yvette N. Davis*, 55 ECAB 475 (2004); *see also William A. Couch*, *supra* note 3.

⁶ *See V.C.*, Docket No. 16-0694 (issued August 19, 2016).

⁷ *B.N.*, Docket No. 17-0787 (issued July 6, 2018).

IT IS HEREBY ORDERED THAT the February 17, 2022 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: December 1, 2022
Washington, DC

Alec J. Koromilas, 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