

³ The Board notes that OWCP received additional evidence following the June 23, 2021 decision. 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.*

On September 27, 2018 appellant, then a 47-year-old transportation security officer (screener), filed a traumatic injury claim (Form CA-1) alleging that on September 24, 2018 he injured his right shoulder, hip, and wrist, as well as his lower back, when he fell backwards out of a chair while operating an x-ray machine while in the performance of duty. OWCP accepted the claim for right hip contusion; right wrist sprain; aggravation of L4-S1 intervertebral disc disorders with myelopathy, and right shoulder rotator cuff tear or rupture.

By decision dated November 13, 2019, OWCP terminated appellant's medical benefits effective that date as he no longer had any residuals of the accepted conditions of right hip contusion, aggravation of intervertebral disc disorder with myelopathy at L4-5, L5-S1, and aggravation of chronic right rotator cuff tear. It advised appellant that his case remained open for unspecified sprain of right wrist.

On December 9, 2019 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review, which was held on April 9, 2020.

By decision dated May 27, 2020, OWCP's hearing representative affirmed the November 13, 2019 decision.

On May 27, 2021 appellant, through counsel, requested reconsideration and submitted additional medical evidence. Counsel argued that appellant continued to suffer residuals of his accepted employment injuries and that he continued to require and receive medical treatment for his conditions.

OWCP received evidence including: August 12, 2020 nerve conduction studies; June 19, October 2 and 9, and November 20, 2020, January 15, February 12, March 19, April 23, and June 18, 2021 follow up examination notes from Dr. Robert R. Reppy, a family medicine specialist; an October 29, 2020 impairment rating; a February 23, 2021 report from Dr. Tifani Gleeson, Board-certified in occupational medicine; and April 26, 2021 magnetic resonance imaging (MRI) scans of appellant's right shoulder, lumbar and cervical spines.

By decision dated June 23, 2021, OWCP denied appellant's request for reconsideration of the merits of his claim. It summarily found that his reconsideration request did not raise a substantive legal question nor include new and relevant evidence and, therefore, was insufficient to warrant a review of the prior decision.

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*,⁴ 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 OWCP summarily denied reconsideration without reviewing any of the new evidence and argument submitted following the May 27, 2020 merit decision.⁵

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

⁵ *See C.D.*, Docket No. 20-0168 (issued March 5, 2020).

It is crucial that OWCP address 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.⁶

Accordingly, the Board will set aside the June 23, 2021 decision and remand the case for OWCP to review the evidence and argument in support of appellant's reconsideration request, make findings of fact, and provide a statement of reasons for its decision, pursuant to the standards set forth in section 5 U.S.C. § 8124(a) and 20 C.F.R. § 10.126. After such further development as OWCP deems necessary, it shall issue an appropriate decision.

IT IS HEREBY ORDERED THAT the June 23, 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: June 9, 2022
Washington, DC

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

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

A handwritten signature in cursive script, appearing to read "J. D. McGinley".

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

⁶ 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 5.