

¹ The Board notes that, following the January 19, 2022 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 development letter dated December 14, 2021, OWCP informed appellant of the deficiencies of his claim and advised him of the type of factual and medical evidence needed to establish his claim. It afforded him 30 days to submit the necessary evidence.

On January 19, 2022 OWCP received evidence. In an attending physician's report, Part B of an authorization for examination and/or treatment (Form CA-16), dated January 5, 2022, Dr. Robert Power, a Board-certified internist, related that appellant sustained left knee and ankle injuries on December 11, 2021 and indicated that he was first examined on the date of injury. He diagnosed a left knee contusion and left ankle pain and checked a box marked "Yes" indicating that they were causally related to the reported incident.

On January 10, 2022 appellant was seen by Dr. Kathy Head, a Board-certified occupational medicine specialist, with ongoing complaints of left knee and ankle pain. Dr. Head related that on December 11, 2021 he tripped over a road marker after chasing a suspect, which caused him to flex his ankle down and back and fell onto his left knee. She diagnosed a left ankle sprain, left knee medial meniscus tear and ganglion cysts.

By decision dated January 19, 2022, OWCP denied appellant's traumatic injury claim, finding that he did not submit any medical evidence to establish a diagnosed medical condition causally related to the accepted December 11, 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*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. While OWCP is not required to list every piece of evidence submitted to the record, the record is clear that the January 5, 2022 report from Dr. Powers and January 10, 2022 progress reports from Dr. Head were not referenced or reviewed by OWCP in its January 19, 2022 decision.³ It is crucial that OWCP addresses 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.⁴ This principle applies with regard to evidence received by OWCP the same day a final decision is issued.⁵ The Board finds that this case is not in posture for decision as OWCP did not review the above-noted evidence in its January 19, 2022 decision.⁶ On remand, OWCP shall review all

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

³ *See J.N.*, Docket No. 21-0086 (issued May 17, 2021); *C.D.*, Docket No. 20-0168 (issued March 5, 2020).

⁴ *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 2.

⁵ *See T.B.*, Docket No. 21-0448 (issued September 27, 2021); *S.S.*, Docket No. 19-1737 (issued April 7, 2020); *J.S.*, Docket No. 16-0505 (issued July 18, 2016); *Linda Johnson*, 45 ECAB 439 (1994) (evidence received the same day as the issuance of OWCP's decision must be reviewed).

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

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

IT IS HEREBY ORDERED THAT the January 19, 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: June 1, 2022
Washington, D.C.

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

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