

her federal employment on March 28, 2015. Appellant stopped work on March 17, 2015. OWCP assigned OWCP File No. xxxxxx503.²

Appellant submitted a series of medical reports in support of the present claim, including a June 4, 2015 report from Dr. Sophia Grias-Radwanski, a Board-certified physiatrist. Dr. Grias-Radwanski diagnosed bilateral carpal tunnel syndrome, bilateral cubital tunnel syndrome, and neck pain with radiculopathy symptoms.

After extensive development of the medical evidence, OWCP found a conflict in the medical opinion evidence between Dr. Grias-Radwanski and Dr. Allen L. Babcock, a Board-certified orthopedic surgeon serving as an OWCP referral physician, regarding whether appellant sustained a new occupational injury due to employment factors. After additional development of the medical evidence,³ it referred appellant for an impartial medical examination with Dr. Clifford M. Buchman, an osteopath and Board-certified orthopedic surgeon, who produced a July 25, 2018 report.

By decision dated August 23, 2018, OWCP denied appellant's claim for a new employment-related occupational condition, finding that the special weight of the medical opinion evidence rested with the well-rationalized opinion of Dr. Buchman, the impartial medical specialist.

By decision dated March 8, 2019, OWCP's hearing representative affirmed OWCP's August 23, 2018 decision.

Appellant appealed to the Board and, by decision dated September 25, 2019,⁴ the Board affirmed OWCP's March 8, 2019 decision.

In a letter dated September 21, 2020 and entered into the Integrated Federal Employees' Compensation System (iFECS) on September 28, 2020, appellant requested reconsideration of her

² Appellant has a prior claim OWCP File No. xxxxxx427, for which she filed an occupational disease claim (Form CA-2) in January 2003. In March 2003 OWCP accepted the claim for bilateral carpal tunnel syndrome. Appellant filed a notice of recurrence (Form CA-2a) in October 2008 alleging a recurrence of disability due to the accepted bilateral carpal tunnel syndrome condition. OWCP converted appellant's recurrence claim to a claim for a new occupational injury, and assigned OWCP File No. xxxxxx340. In May 2009, it accepted that claim for a aggravation of bilateral carpal tunnel syndrome. OWCP administratively combined OWCP File Nos. xxxxxx427, xxxxxx340, and xxxxxx503, with OWCP File No. xxxxxx427 designated as the master file.

³ Prior to the referral to Dr. Buchman, OWCP referred appellant to three other impartial medical specialists, but it found deficiencies in their evaluations, which required the referral to Dr. Buchman.

⁴ *Supra* note 1.

claim. On September 28, 2020 OWCP received a February 17, 2020 report from Dr. Grias-Radwanski who provided an extensive discussion of appellant's work duties and opined that she had sustained several new occupational conditions due to these duties.⁵

By decision dated October 19, 2020, OWCP denied appellant's request for reconsideration, finding that it was untimely filed and failed to demonstrate clear evidence of error. In reaching this decision, it did not discuss any evidence submitted by appellant in connection with her reconsideration request.

In an October 28, 2020 letter, appellant argued that she filed a timely reconsideration request in that a postal record demonstrated that, on September 25, 2020, OWCP had received her reconsideration request letter, dated September 21, 2020. She submitted a U.S. Postal Service tracking document that indicated a package was delivered on September 25, 2020 to an address in London, Kentucky.

In a September 21, 2020 letter received by OWCP on November 4, 2020, appellant argued that she had submitted sufficient medical evidence to establish several new employment-related occupational conditions. She indicated that she had submitted additional medical evidence, including a new report of Dr. Grias-Radwanski.

In an October 28, 2020 letter received by OWCP on the same date, appellant again argued that she filed a timely reconsideration request on September 25, 2020.

By decision dated January 7, 2021, OWCP denied appellant's request for reconsideration of the merits of her claim pursuant to 5 U.S.C. § 8128(a). It found that she had, in fact, filed a timely reconsideration request, but determined that she had not submitted evidence or argument entitling her to merit review. OWCP asserted that appellant had not submitted any new medical evidence in connection with her reconsideration request.

The Board finds that this case is not in posture for decision with respect to whether appellant sustained a new employment-related occupational condition.

FECA provides that OWCP shall determine and make findings of fact in making an award for or against payment of compensation after considering the claim presented by the employee and after completing such investigation as OWCP considers necessary with respect to the claim.⁶ Since the Board's jurisdiction of a case is limited to reviewing the evidence which is before OWCP at the time of its final decision,⁷ it is necessary that OWCP review all evidence submitted by a claimant and received by OWCP prior to issuance of its final decision. As the Board's decisions are final as

⁵ Appellant also submitted a May 15, 2018 report from Dr. Peter E. Metropoulos, an attending osteopath and Board-certified occupational medicine specialist, and a March 3, 2020 report from Dr. Mitchell Pollak, a Board-certified orthopedic surgeon. The reports had previously been submitted and considered by OWCP.

⁶ 5 U.S.C. § 8124(a)(2).

⁷ 20 C.F.R. § 501.2(c).

to the subject matter appealed,⁸ it is crucial that all evidence relevant to that subject matter which was properly submitted to OWCP prior to the time of issuance of its final decision be addressed by OWCP.⁹

In the present case, OWCP did not review evidence received prior to the issuance of its January 7, 2021 decision, *i.e.*, a February 17, 2020 report of Dr. Grias-Radwanski. The Board, therefore, must set aside this decision of OWCP and remand the case so that OWCP may fully consider the evidence that was properly submitted by appellant prior to the issuance of the January 7, 2021 decision. Following this and such other further development it deems necessary, OWCP shall issue an appropriate decision regarding appellant's occupational disease claim.

IT IS HEREBY ORDERED THAT the January 7, 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: March 30, 2022
Washington, DC

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

⁸ *Id.* at § 501.6(d).

⁹ *T.B.*, Docket No. 19-1841 (issued July 7, 2020); *E.P.*, Docket No. 14-0278 (issued February 26, 2014). *See also William A. Couch*, 41 ECAB 548, 553 (1990).