

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

|                                   |   |                                  |
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| N.W., Appellant                   | ) |                                  |
|                                   | ) |                                  |
| and                               | ) | <b>Docket No. 21-0997</b>        |
|                                   | ) | <b>Issued: November 15, 2022</b> |
| U.S. POSTAL SERVICE, POST OFFICE, | ) |                                  |
| Newark, NJ, Employer              | ) |                                  |
|                                   | ) |                                  |

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**ORDER REMANDING CASE**

Before:  
ALEC J. KOROMILAS, Chief Judge  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

On June 19, 2021 appellant filed a timely appeal from an April 14, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 21-0997.

On December 23, 2020 appellant, then a 38-year-old tractor trailer operator, filed a traumatic injury claim (Form CA-1) alleging that on December 17, 2020 he experienced a lower back strain when he slipped on ice-covered asphalt while in the performance of duty. On the back of the claim form the employing establishment acknowledged that he was in the performance of duty when injured. Appellant stopped work on the date of injury and returned on December 18, 2020.

In a development letter dated March 11, 2021, OWCP informed appellant that it had received no evidence in support of his traumatic injury claim. It advised him of the type of factual and medical evidence necessary to establish his claim and provided a questionnaire for his completion. OWCP afforded appellant 30 days to submit the necessary evidence.

On April 14, 2021 OWCP received a December 18, 2020, report from Dr. Anjali Muduli, a Board-certified emergency medicine physician, noting that he had presented to the emergency room with complaints of pain in his left elbow and in the sacral area of his lower back after he slipped and fell on ice, landing on his left elbow and lower back (sacral area). A computerized

tomography (CT) scan of appellant's sacrum revealed mild degenerative changes at L5-S1. In a diagnostic report of even date, Dr. Pranay Uppuluri, a Board-certified radiologist, performed a CT scan of the lumbar spine without contrast, which revealed minimal degenerative changes at L4-5. He provided an impression of low back sprain and sprain of the left elbow.

By decision dated April 14, 2021, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish that the December 17, 2020 employment incident occurred, as alleged. It noted that he had not provided any medical or factual documentation to support his work injury. Consequently, OWCP found that appellant had not met the requirements 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 a decision. In the case of *William A. Couch*,<sup>1</sup> the Board held that, when adjudicating a claim, OWCP is obligated to consider and address 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 medical reports received on April 14, 2021 were not referenced or reviewed by OWCP in its April 14, 2021 decision.<sup>2</sup> 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.<sup>3</sup> This principle applies with regard to evidence received by OWCP the same day a final decision is issued.<sup>4</sup> As OWCP did not consider and address the evidence received on April 14, 2021, the Board finds that this case is not in posture for decision.<sup>5</sup> On remand OWCP shall consider and address all evidence of record and, following any further development as deemed necessary, it shall issue a *de novo* decision.

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<sup>1</sup> 41 ECAB 548 (1990); *see also* *R.D.*, Docket No. 17-1818 (issued April 3, 2018).

<sup>2</sup> *See J.N.*, Docket No. 21-0086 (issued May 17, 2021); *C.D.*, Docket No. 20-0168 (issued March 5, 2020).

<sup>3</sup> *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 1.

<sup>4</sup> *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).

<sup>5</sup> *See V.C.*, Docket No. 16-0694 (issued August 19, 2016).

**IT IS HEREBY ORDERED THAT** the April 14, 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: November 15, 2022  
Washington, DC

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

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

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