

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

S.M., Appellant	)	
	)	
and	)	Docket No. 22-0532
	)	Issued: October 7, 2022
U.S. POSTAL SERVICE, POST OFFICE,	)	
Bellmawr, NJ, Employer	)	
	)	

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

*Case Submitted on the Record*

**ORDER REMANDING CASE**

Before:  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
JANICE B. ASKIN, Judge  
JAMES D. MCGINLEY, Alternate Judge

**JURISDICTION**

On February 22, 2022 appellant filed a timely appeal from a February 2, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Board's assigned Docket No. 22-0532.<sup>1</sup>

On August 11, 2021 appellant, then a 34-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that, on August 6, 2021, she sustained a fracture and puncture to her right hand when she was attacked by a dog while in the performance of duty. She stopped work on August 6, 2021.

On November 5, 2021 OWCP formally adjudicated the claim and accepted a fracture of unspecified phalanx of right index finger and an open bite of the right hand.

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<sup>1</sup> The Board notes that following the February 2, 2022 decision, OWCP received additional evidence. 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 November 9, 2021 appellant submitted claims for compensation (Form CA-7) for leave without pay for the period September 11 through November 5, 2021.

In a September 14, 2021 duty status report (Form CA-17) and a work capacity evaluation form (Form OWCP-5c) of even date, Stacie E. Guyton, a nurse practitioner, indicated that from September 14 to October 12, 2021 appellant was to perform modified light-duty work. On November 3, 2021 OWCP received another undated Form OWCP-5c from Ms. Guyton wherein she related that appellant was limited to modified light duty.

In a development letter dated November 18, 2021, OWCP advised appellant of the deficiencies in the evidence received. It also advised her of the necessary medical evidence to support disability during the period claimed. OWCP noted that appellant should provide a comprehensive narrative report from her physician which explained why she was unable able to perform the duties of her position when she stopped work on August 6, 2021. It afforded her 30 days to respond.

On December 7, 2021 Dr. Randeep Kahlon, a specialist in hand surgery, co-signed CA-17 forms dated September 14, and October 4, 2021 and an OWCP-5c form dated October 4, 2021, which were initially signed by a nurse practitioner. These forms indicated that appellant was restricted to modified light duty as of September 14, 2021 due to the August 6, 2021 closed displaced fracture of phalanx of right index finger.

OWCP also received an August 6, 2021 x-ray report of right hand and additional reports from a nurse practitioner and physical therapists.

By decision dated February 2, 2022, OWCP denied appellant's claim for wage-loss compensation commencing September 11, 2021. It found that the evidence of record was insufficient to establish disability as appellant had only submitted evidence from a nurse practitioner and physical therapy records.

The Board finds that this case is not in posture for decision.

On December 7, 2021 Dr. Kahlon co-signed CA-17 forms dated September 14 and October 4, 2021 and an OWCP-5c form dated October 4, 2021, which were initially signed by a nurse practitioner. These forms indicated that appellant was restricted to modified light duty as of September 14, 2021 due to the August 6, 2021 closed displaced fracture of phalanx of right index finger.

In the case of *William A. Couch*,<sup>2</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. In its February 2, 2022 decision, OWCP failed to review the December 7, 2021 addendum reports co-signed by Dr. Kahlon.

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<sup>2</sup> 41 ECAB 548 (1990); *F.A.*, Docket No. 20-1324 (issued March 1, 2021); *T.G.*, Docket No. 19-1930 (issued January 8, 2021).

As the Board's decisions are final as to the subject matter appealed, it is crucial that all evidence relevant to the subject matter of the claim properly submitted to OWCP be considered and addressed.<sup>3</sup> For this reason, the case will be remanded to OWCP to enable it to properly consider and address all the evidence submitted at the time of the February 2, 2022 decision. Following this and other such further development as deemed necessary, it shall issue a *de novo* decision. Accordingly,

**IT IS HEREBY ORDERED THAT** the February 2, 2022 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: October 7, 2022  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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

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<sup>3</sup> *Id.*