

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

J.T., Appellant

and

**DEPARTMENT OF THE INTERIOR, BUREAU
OF INDIAN AFFAIRS, Fort Washakie, WY,
Employer**

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**Docket No. 22-0549
Issued: October 13, 2022**

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
JAMES D. MCGINLEY, Alternate Judge

On March 3, 2022 appellant filed a timely appeal from a January 31, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 22-0549.

On December 16, 2021 appellant, then a 34-year-old correctional officer, filed a traumatic injury claim (Form CA-1) alleging that on December 9, 2021, he strained his left shoulder and arm when he was struck by a combative inmate while in the performance of duty. He stopped work on December 10, 2021 and returned on December 13, 2021.

In support of his claim, appellant submitted a December 10, 2021 report from Dr. Jeremy Newman, Board-certified in emergency medicine, who had treated him for a shoulder sprain. Dr. Newman prescribed pain medication and provided discharge instructions for a left shoulder sprain. In a prescription note of even date, Dr. Newman referred appellant for physical therapy treatment for a left shoulder strain.

In a development letter dated December 22, 2021, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence necessary to establish his claim. OWCP afforded appellant 30 days to respond.

OWCP received Part B of an authorization for examination and/or treatment (Form CA-16), attending physician's report, dated January 10, 2022, in which Dr. Demar D. Hill, who specializes in family medicine, noted that appellant reported being hit in the left shoulder by an inmate. Dr. Hill diagnosed a left shoulder strain. He checked a box marked "Yes" indicating that the diagnosed condition was caused or aggravated by the December 9, 2021 employment activity.

By decision dated January 31, 2022, OWCP denied appellant's traumatic injury claim, finding that the medical evidence submitted was insufficient to establish causal relationship between his diagnosed conditions and the accepted December 9, 2021 employment incident.

The Board has duly considered the matter and finds that this case is not in posture for decision. In the case of *William A. Couch*,¹ 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. As detailed above, appellant submitted evidence from Dr. Hill. On Part B of a CA-16, dated January 10, 2022, Dr. Hill noted the history of injury and indicated a diagnosis of left shoulder strain. However, the record does not indicate that OWCP reviewed this additional evidence in its January 31, 2022 decision. It, thus, failed to follow its procedures by not considering all of the relevant evidence of record.²

As Board decisions are final with regard to the subject matter appealed, it is crucial that OWCP address all relevant evidence received prior to the issuance of its final decision.³ For this reason, the case will be remanded to OWCP to address the above-noted evidence submitted at the time of its January 31, 2022 decision.⁴ Following this and other such further development as deemed necessary, OWCP shall issue an appropriate decision. Accordingly,

¹ 41 ECAB 548 (1990); *see K.B.*, Docket No. 20-1320 (issued February 8, 2021); *see also R.D.*, Docket No. 17-1818 (issued April 3, 2018).

² OWCP's procedures provide that all evidence submitted should be reviewed and discussed in the decision. Evidence received following development that lacks probative value also should be acknowledged. Whenever possible, the evidence should be referenced by author and date. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Denials*, Chapter 2.1401.5(b)(2) (November 2012).

³ *E.D.*, Docket No. 20-0620 (issued November 18, 2020); *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.

⁴ *D.S.*, Docket No. 20-0589 (issued November 10, 2020); *see V.C.*, Docket No. 16-0694 (issued August 19, 2016).

IT IS HEREBY ORDERED THAT the January 31, 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.⁵

Issued: October 13, 2022
Washington, DC

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

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

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

⁵ The Board notes that the employing establishment issued a Form CA-16 regarding the present claim. A completed Form CA-16 authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. *See* 20 C.F.R. § 10.300(c); *V.S.*, Docket No. 20-1034 (issued November 25, 2020); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).