

<sup>1</sup> The Board notes that OWCP received additional evidence following the January 26, 2021 decision. 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.*

including comments from a knowledgeable supervisor, regarding appellant's traumatic injury. It afforded both parties 30 days to submit the requested evidence.

In a January 12, 2021 response to OWCP's development questionnaire, the employing establishment noted that appellant was working from home in an official capacity at the time of her injury. It indicated that her supervisor had received a call that she had fallen and injured herself while working at her desk.

On January 26, 2021 OWCP received medical evidence including December 9, 2020 of x-rays of appellant's right forearm, right hip, and chest; magnetic resonance imaging (MRI) scans of her brain, cervical and lumbar spine; and an ultrasound of her kidneys and bladder, noting that she had fallen on December 8, 2020. It also received a medical note dated January 11, 2021 by Dr. Andrew K. Brobbey, a Board-certified internist, who held her off work December 8 through 18, 2020.

In an e-mail also dated January 26, 2021, appellant provided responses to OWCP's questionnaire.

By decision dated January 26, 2021, OWCP denied appellant's traumatic injury claim. It accepted that the December 8, 2020 employment incident occurred as alleged, but denied her claim because she had failed to submit sufficient medical evidence to establish a medical diagnosis in connection with the accepted employment incident. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA. In its decision, OWCP asserted that it had not received any medical evidence in support of appellant's claim.

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>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.

It is crucial that OWCP consider and address 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 on the same day a final decision is issued.<sup>4</sup> The Board finds that this case is not in posture for decision as OWCP did not consider and address any of the evidence received on January 26, 2021, including the December 9, 2020 diagnostic reports and Dr. Brobbey's January 11, 2021 medical note, in its January 26, 2021 merit

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<sup>2</sup> 41 ECAB 548 (1990); *see also G.T.*, Docket No. 19-1619 (issued May 22, 2020); *R.D.*, Docket No. 17-1818 (issued April 3, 2018).

<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*, *id.*

<sup>4</sup> *See 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).

decision.<sup>5</sup> On remand, OWCP shall consider and address all evidence of record and, following any further development as it deems necessary, it shall issue a *de novo* decision. Accordingly,

**IT IS HEREBY ORDERED THAT** the January 26, 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: February 2, 2023  
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

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