

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

S.U., Appellant)	
)	
and)	Docket No. 23-0294
)	Issued: June 9, 2023
DEPARTMENT OF VETERANS AFFAIRS,)	
PALO ALTO VA MEDICAL CENTER,)	
Palo Alto, CA, Employer)	
)	

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

Case Submitted on the Record

ORDER GRANTING REMANDING

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

On December 26, 2022 appellant filed a timely appeal from a November 28, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 23-0294.

The Director of OWCP filed a motion on January 9, 2023, requesting that the Board set aside OWCP's November 28, 2022 decision and remand the case for further specified development. The Director noted that although appellant's November 22, 2022 traumatic injury claim (Form CA-1) for having contracted COVID-19 while in the performance of duty included a date of injury of October 16, 2022, the record reveals that he was not tested until October 24, 2022. The Director further noted that the record is unclear as to "when exactly appellant stopped working" and, on appeal, appellant contends that his date of injury was October 25, 2022. The Director acknowledged "that there is no indication" regarding why OWCP listed October 16, 2022 as the date of injury as the evidence of record did not support that this was the date of actual exposure because appellant was exposed to an ill coworker on that date. The Director concluded that under the facts and circumstances of this case, the date of injury is unclear "and, therefore, appellant's entitlement to COP is uncertain." On remand, the Director indicated that OWCP will further develop the record to determine the date of injury, to be followed by a *de novo* decision on appellant's entitlement to COP for exposure to COVID-19 while in the performance of duty.

The Clerk of the Appellate Boards served appellant with a copy of the Director's motion to remand on January 19, 2023. No response was received.

The Board, having duly considered the matter, concludes that, for all of the reasons espoused by the Director in his motion to remand, this motion shall be granted. Accordingly,

IT IS HEREBY ORDERED THAT the motion to remand filed by the Director of the Office of Workers' Compensation Programs is granted. The November 28, 2022 decision of OWCP is set aside and the case is remanded for further proceedings consistent with this order of the Board.

Issued: June 9, 2023
Washington, DC

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

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

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