

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

G.A., Appellant)	
)	
and)	Docket No. 23-0347
)	Issued: June 26, 2023
U.S. POSTAL SERVICE, HAMILTON PARK)	
STATION, Dallas, TX, Employer)	
)	

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

Case Submitted on the Record

ORDER REMANDING CASE

Before:
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

On December 5, 2022 appellant filed a timely appeal from an August 24, 2022 nonmerit decision¹ of the Office of Workers' Compensation Programs (OWCP).² The Clerk of the Appellate Boards assigned Docket No. 23-0347.³

¹ Appellant did not provide the date of the Office of Workers' Compensation Programs (OWCP) decision on appeal on her AB-1; however, the only decision within the Board's jurisdiction is OWCP's August 24, 2022 decision. *See* 20 C.F.R. §§ 501.2(c) and 501.3.

² Appellant submitted a timely request for oral argument before the Board. 20 C.F.R. § 501.5(b). Pursuant to the Board's *Rules of Procedure*, oral argument may be held in the discretion of the Board. 20 C.F.R. § 501.5(a). The Board, in exercising its discretion, denies appellant's request for oral argument because the arguments on appeal can adequately be addressed in a decision based on a review of the case record. Oral argument in this appeal would further delay issuance of a Board decision and not serve a useful purpose. As such, the oral argument request is denied and this decision is based on the case record as submitted to the Board.

³ The Board notes that following the August 24, 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 caserecord 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 August 15, 2000 appellant, then a 54-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on August 14, 2000 she sustained an injury to her lower back and thighs when picking up a bucket of flats while in the performance of duty. OWCP accepted the claim for lumbar strain, lumbar neuritis and displacement of lumbar intervertebral disc. It paid appellant intermittent periods of total and partial disability on the supplemental and periodic rolls as of May 29, 2004. OWCP placed appellant on the periodic rolls as of May 8, 2011.

By decision dated April 22, 2021, OWCP suspended appellant's wage-loss compensation benefits, effective April 25, 2021, due to her failure to submit a fully completed EN-1032 form, as requested. It noted that, if she completed and returned the enclosed copy of the EN-1032 form, her compensation benefits would be restored retroactively to the date they were suspended.

On April 26 and May 5, 2021 OWCP received appellant's completed EN-1032 form dated April 19 and April 26, 2021, respectively.

On June 24, 2022 OWCP received appellant's June 15, 2022 appeal request form of its April 22, 2021 decision. Appellant requested both reconsideration and an appeal before the Board. The envelope was addressed to OWCP's Branch of Hearings and Review.

On June 28, 2022 OWCP acknowledged receipt of appellant's reconsideration request.

By decision dated August 24, 2022, OWCP denied appellant's request for reconsideration of the April 22, 2021, finding that the request was untimely filed and failed to demonstrate clear evidence of error.

The Board has duly considered this matter and finds that this case is not in posture for decision.

In the case of *William A. Couch*,⁴ 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 relevant to the subject matter properly submitted prior to the issuance of its final decision, as the Board's decisions are final with regard to the subject matter appealed.⁵

Following OWCP's suspension decision of April 22, 2021, OWCP received completed EN-1032 forms dated April 19 and April 26, 2021, on April 26 and May 5, 2021, respectively. As noted in OWCP's April 22, 2021 decision, appellant's compensation benefits would be restored retroactively to the date they were suspended if she complied with OWCP's request to submit a completed EN-1032 form. In its August 24, 2022 decision, OWCP did not acknowledge the EN-1032 forms dated April 19 and April 26, 2021 or address why such forms were insufficient to restore appellant's compensation benefits retroactively to the date they were suspended April 25, 2021.

⁴ 41 ECAB 548 (1990).

⁵ See *C.S.*, Docket No. 18-1760 (issued November 25, 2019); *Yvette N. Davis*, 55 ECAB 475 (2004); see also *William A. Couch*, *id.*

As OWCP did not consider and address appellant's EN-1032 forms dated April 19 and April 26, 2021 following the suspension of her compensation, the Board finds that this case is not in posture for decision.⁶ On remand, it shall review all evidence of record and, following any further development as it deems necessary, it shall issue an appropriate decision. Accordingly,

IT IS HEREBY ORDERED THAT the August 24, 2022 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: June 26, 2023
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

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

⁶ See *T.B.*, Docket No. 22-0795 (issued September 12, 2022).