

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

R.P., Appellant)	
)	
and)	Docket No. 23-0536
)	Issued: October 3, 2023
U.S. POSTAL SERVICE, HONEA PATH POST)	
OFFICE, Honea Path, SC, 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
VALERIE D. EVANS-HARRELL, Alternate Judge

On March 10, 2023 appellant filed a timely appeal from a December 16, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 23-0536.

On August 23, 2022 appellant, then a 56-year-old mail rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on August 12, 2022 she sustained multiple injuries, including right lower extremity pain and swelling and neck, shoulders, and back soreness when she hit her right foot at the top step of the dock causing her to fall while in the performance of duty. She did not stop work.

In an August 12, 2022 work status report, Daniela Player, a physician assistant, diagnosed right knee internal derangement and back strain due to an injury that occurred that same date.

An August 12, 2022 diagnostic study of the right knee provided an impression of mild degenerative disc disease. A September 23, 2022 diagnostic study of the right knee provided an impression of no acute fracture and mild degenerative changes.

In a September 29, 2022 medical note, Ms. Player documented treatment for appellant's injury. In a work status report of even date, she diagnosed right knee pain and provided work restrictions.

In a November 17, 2022 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence required and provided a questionnaire for her completion. OWCP afforded appellant 30 days to submit the requested evidence.

On December 16, 2022 OWCP received a December 6, 2022 urgent care note containing diagnoses.

By decision dated December 16, 2022, OWCP accepted that the August 12, 2022 employment incident occurred as alleged. However, it denied appellant's traumatic injury claim, finding that the medical evidence of record did not contain a medical diagnosis in connection with the accepted August 12, 2022 employment incident. Consequently, OWCP found that she had not met the requirements to establish an injury as defined by FECA.

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 and address all evidence properly submitted by a claimant and received by OWCP before the final decision is issued.

In its December 16, 2022 decision, OWCP failed to consider the December 6, 2022 urgent care note, received on December 16, 2022 which addressed whether appellant had a diagnosed condition in connection with the accepted employment incident. As such, it failed to follow its procedures by properly reviewing and discussing all of the evidence of record.² 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.³ This principle applies with regard to evidence received by OWCP the same day a final decision is issued.⁴

The Board thus finds that this case is not in posture for a decision as OWCP did not consider and address the evidence submitted by appellant in support of her claim for compensation.⁵ On

¹ 41 ECAB 548 (1990); *see also Order Remanding Case, A.D.*, Docket No. 22-0519 (issued January 11, 2023); *A.B.*, Docket No. 22-0179 (issued June 28, 2022); *S.H.*, Docket No. 19-1582 issued May 26, 2020); *R.D.*, Docket No. 17-1818 (issued April 3, 2018).

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

³ *See A.D.*, *supra* note 1; *A.B.*, *supra* note 1; *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 *See T.B.*, Docket No. 21-0448 (issued September 27, 2021); *Order Remanding Case, S.S.*, Docket No. 19-1737 (issued April 7, 2020); *Order Remanding Case, 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 an OWCP decision must be reviewed).

⁵ *See A.B.*, *supra* note 1; *S.H.*, *supra* note 1; *V.C.*, Docket No. 16-0694 (issued August 19, 2016).

remand, OWCP shall review all evidence of record and, following any further development it deems necessary, it shall issue a *de novo* decision. Accordingly,

IT IS HEREBY ORDERED THAT the December 16, 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.

Issued: October 3, 2023
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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