

The record contains a notification of personnel action (Form SF-50) from the Marine Maintenance Depot Command in Albany, GA, dated May 19, 2021 noting a termination -- expiration of appointment as painting worker effective June 2, 2021.

Appellant filed claims for compensation (Form CA-7) for wage-loss compensation for the periods June 4 to August 2, 2021 and October 16 to December 1, 2021.

By decision dated March 3, 2022, OWCP denied appellant's claim for recurrence of disability for June 4 to August 2, 2021 and October 16 to December 1, 2021, finding the medical evidence insufficient to establish disability due to a material change/worsening of his accepted employment-related conditions.

In reports dated March 10 and 18, 2022, Dr. Michael K. McFadden, a Board-certified physiatrist and pain medicine physician, noted that appellant had been referred by Dr. Wolgin for chronic lower back pain and bilateral lower extremity pain associated with moderate spinal stenosis. He found appellant disabled from work.

On April 1, 2022 appellant requested reconsideration.

In an April 12, 2022 letter, Dr. Wolgin noted his disagreement with OWCP's denial of appellant's claim, and attached a copy of his December 30, 2021 report. He found appellant totally disabled from performing any work.

Dr. Wolgin, in an April 28, 2022 report, reiterated findings from prior reports. He found appellant disabled from work until further notice.

In a report dated June 9, 2022, Dr. Marla Black Morgan, a Board-certified neurologist, noted appellant's history of injury and his current complaints of pain and numbness with tingling in his legs. She reviewed appellant's nerve conduction and electromyograph findings and related that appellant had findings of severe sensory motor polyneuropathy, and changes compatible with, but not indicative of, left mid lumbar polyradiculopathy.

A report dated June 14, 2022 from Dr. Wolgin reiterated that appellant was totally disabled from work at that time.

By decision dated June 29, 2022, OWCP denied modification finding Dr. Wolgin's April 12, 2022 report insufficient to establish that appellant was disabled from work.

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

While OWCP is not required to list every piece of evidence submitted to the record, the record is clear that medical reports were not reviewed by OWCP in its June 29, 2022 decision.<sup>1</sup> It only acknowledged receipt of Dr. Wolgin's April 12, 2022 report. OWCP provided no indication that it had considered and addressed Dr. McFadden's March 10 and 18, 2022 reports, Dr. Wolgin's April 28, June 14, 2022 reports, or Dr. Morgan's June 9, 2022 report, which were received prior to the issuance of OWCP's June 29, 2022 decision.

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<sup>1</sup> See *D.B.*, Docket No. 21-0984 (issued December 27, 2021); *T.G.*, Docket No. 19-1930 (issued January 8, 2021).

Because Board decisions are final with regard to the subject matter appealed,<sup>2</sup> it is crucial that OWCP consider all relevant evidence received prior to the issuance of its final decision.<sup>3</sup> As OWCP did not consider relevant evidence, which was submitted prior to and on the day of OWCP's April 8, 2021 decision, the Board finds that this case is not in posture for decision.<sup>4</sup> On remand OWCP shall review all relevant evidence that was of record at the time of the June 29, 2022 decision. Following this and other such further development as deemed necessary, it shall issue a *de novo* decision.

**IT IS HEREBY ORDERED THAT** the June 29, 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: September 12, 2023  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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

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<sup>2</sup> 20 C.F.R. § 501.6(d).

<sup>3</sup> All evidence submitted should be reviewed and discussed in the decision. Evidence received following development that lacks probative value 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 2.1401.5(b)(2) (November 2012). *See also E.D.*, Docket No. 20-0620 (issued November 18, 2020); *Linda Johnson*, 45 ECAB 439 (1994) (OWCP must review all evidence relevant to the subject matter and received by OWCP before issuance of its final decision including medical reports received on the same day it issues its decision); *William A. Couch*, 41 ECAB 548, 553 (1990).

<sup>4</sup> *See M.N.*, Docket No. 20-0110 (issued July 7, 2020); *Y.B.*, Docket No. 20-0205 (issued July 7, 2020); *H.H.*, Docket No. 14-1985 (issued June 26, 2015).