

old soft tissue injury versus small posterior malleolar fracture. Dr. Denny diagnosed closed fracture of the left ankle.

In a January 6, 2023 report, Dr. Evan L. Hanna, an orthopedic surgery specialist, related that appellant slipped while walking on a handicap ramp and twisted his ankle. Appellant further related feeling a pop and immediate onset of pain, as well as an inability to bear weight on his ankle. Dr. Hanna diagnosed closed displaced fracture of lateral malleolus of the left fibula.

OWCP received a completed work capacity evaluation form (Form OWCP-5c) dated January 6, 2023 and signed by Dr. Hanna who indicated that appellant was not capable of working his usual job and unable to work with physical restrictions. Dr. Hanna further indicated that maximum medical improvement (MMI) had not been reached.

In a development letter dated January 12, 2023, OWCP indicated that the evidence provided was insufficient to establish that appellant actually experienced the employment incident alleged to have caused injury. It provided a questionnaire to him to substantiate the factual elements of his claim. Further, OWCP requested that appellant provide a narrative report from a physician containing a detailed description of findings and a diagnosis, an imaging or radiology report, and a medical explanation of how the work incident caused or aggravated a medical condition. It afforded him 30 days to respond.

OWCP received a claim for compensation (Form CA-7) form dated January 14, 2023 for disability from work for the period January 4 to March 22, 2023.

On January 12, 2023 appellant underwent an unauthorized open reduction and internal fixation (ORIF) surgery on his left ankle by Dr. Hanna.

By decision dated February 14, 2023, OWCP accepted that the January 4, 2023 employment incident occurred as alleged and that a medical condition was diagnosed. However, it denied appellant's claim, finding that the medical evidence of record was insufficient to establish causal relationship between his diagnosed condition and the accepted January 4, 2023 employment incident.

By decision dated February 17, 2023, OWCP denied appellant's claim for compensation for disability from work for the period January 4 to March 22, 2023. It found that the medical evidence of record was insufficient to establish that he was disabled from work during the claimed period due to his accepted work-related condition because an imaging or radiology report was not received and a summary medical narrative from a physician which outlined causal relationship. The record indicates that appellant's claim was accepted for displaced fracture of the lateral malleolus of the left fibula.

The Board finds that the case is not in posture for decision.

On January 4, 2023 appellant was treated in an emergency department by Dr. Denny. He related left ankle pain after a slip and fall due to a wet floor while delivering mail. An x-ray report of the ankle and foot by Dr. Christian was reviewed. On January 6, 2023 appellant was seen by Dr. Hanna, who diagnosed closed displaced fracture of lateral malleolus of the left fibula. On that date Dr. Hanna completed a Form OWCP-5c indicating that appellant was not capable of working his usual job and unable to work with physical restrictions. He further indicated that MMI had not

been reached. Dr. Hanna completed appellant's left ankle surgical procedure on January 12, 2023 which consisted of ORIF of the left ankle.

In the case of *William A. Couch*,² 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 February 17, 2023 decision, OWCP failed to consider and address the January 4, 2023 report from Dr. Denny, which included a review of appellant's left ankle x-ray, and Dr. Hanna's January 12, 2023 operative report.

As the Board's decisions are final as to the subject matter appealed, it is crucial that all evidence relevant to the subject matter of the claim properly submitted to OWCP be considered and addressed.³ For this reason, the case will be remanded to OWCP to enable it to properly consider and address all the evidence submitted at the time of the February 17, 2023 decision. Following this and other such further development as deemed necessary, it shall issue a *de novo* decision. Accordingly,

IT IS HEREBY ORDERED THAT the February 17, 2023 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 18, 2023
Washington, DC

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

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

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

² 41 ECAB 548 (1990); *F.A.*, Docket No. 20-1324 (issued March 1, 2021); *T.G.*, Docket No. 19-1930 (issued January 8, 2021).

³ *Id.*