

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

V.H., Appellant	)	
	)	
and	)	<b>Docket No. 23-1013</b>
	)	<b>Issued: February 15, 2024</b>
U.S. POSTAL SERVICE, WEATHERS POST	)	
OFFICE, Swansea, IL, Employer	)	
	)	

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

*Case Submitted on the Record*

**ORDER REMANDING CASE**

Before:  
ALEC J. KOROMILAS, Chief Judge  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
JANICE B. ASKIN, Judge

On July 25, 2023 appellant filed a timely appeal from July 25, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 23-1013.

This case has previously been before the Board on different issues.<sup>1</sup> The facts and circumstances as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On September 15, 2016 appellant, then a 55-year-old supervisor of customer services filed a traumatic injury claim (Form CA-1) alleging that on September 15, 2016 she developed anxiety, panic attacks, and depression when she was "suddenly informed that [she] would be returning to a hostile and abusive work environment -- after the postmaster told [her] that [she]

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<sup>1</sup> Docket No. 04-0947 (issued September 28, 2004); Docket No. 18-0273 (issued July 27, 2018); Docket No. 19-0827 (issued November 20, 2019); Docket No. 19-0807 (issued December 3, 2019).

would not be returning back there.”<sup>2</sup> She stopped work on September 17, 2016. On September 8, 2022 OWCP accepted the claim for post-traumatic stress disorder.

On January 6, 2023 appellant filed a claim for wage-loss compensation (Form CA-7) for disability from work for the period April 20, 2019 through January 5, 2023.

In March 10 and 22, 2023 development letters, OWCP informed appellant of the deficiencies of her disability claim. It advised her of the type of medical evidence needed to establish her claim and afforded her 30 days to respond.

By decision dated April 28, 2023, OWCP denied appellant’s disability claim, finding that the medical evidence of record was insufficient to establish disability from work commencing April 20, 2019, causally related to the accepted employment injury.

On May 1, 2023 appellant requested reconsideration of the April 28, 2023 decision.

By decision dated July 25, 2023, OWCP denied modification of the April 28, 2023 decision.

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

Section 10.121 of OWCP’s regulations provides that if a claimant submits factual evidence, medical evidence, or both in support of his or her claim, but OWCP determines that this evidence is not sufficient to meet the burden of proof, it will inform the claimant of the additional evidence needed and provide the claimant at least 60 days to submit the evidence required.<sup>3</sup>

The 60th day following March 22, 2023 was September 18, 2023. Therefore, appellant should have been afforded until September 18, 2023, to submit the requested evidence. OWCP, however, issued its decision denying her disability claim on April 28, 2023. It, therefore, did not fulfill its responsibility under its procedures.<sup>4</sup>

Thus, the Board finds that this case must be remanded for proper application of OWCP’s procedures allowing appellant 60 days to respond to the request for additional evidence, to be followed by a *de novo* decision. Accordingly,

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<sup>2</sup> On September 22, 2000 appellant filed an occupational disease claim (Form CA-2) alleging that she developed constant pain in her neck and down her left shoulder and arm due to factors of her federal employment. OWCP assigned that claim OWCP File No. xxxxxx535 and accepted it for a cervical myofasciitis on May 9, 2002. On October 8, 2003 OWCP expanded the acceptance of that claim to include major depressive disorder. Appellant’s claims have been administratively combined, with OWCP File No. xxxxxx535 serving as the master file.

<sup>3</sup> 20 C.F.R. § 10.121. Effective March 7, 2023, 20 C.F.R. § 10.121 was amended to allow a claimant 60 days, increased from the prior 30-day period, to submit supporting evidence on an initial claim. *See also* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.0800.4c(2) (November 2023).

<sup>4</sup> *Id.*

**IT IS HEREBY ORDERED THAT** the July 25, 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: February 15, 2024  
Washington, DC

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

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board