

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

T.D., Appellant)	
)	
and)	Docket No. 23-0856
)	Issued: January 19, 2024
U.S. POSTAL SERVICE, POST OFFICE,)	
Oklahoma City, OK, 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
JANICE B. ASKIN, Judge
JAMES D. MCGINLEY, Alternate Judge

On June 7, 2023 appellant filed a timely appeal from a June 7, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 23-0856.

On February 11, 2019 appellant, then a 29-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on February 11, 2019 she sustained a sprain to her middle back when a dog ran out from under a vehicle and caused her to fall while in the performance of duty. She did not immediately stop work. OWCP accepted the claim for a sprain of the ligaments of the lumbar spine, contusion of the lower back and pelvis, lumbar radiculopathy, and other intervertebral disc displacement, lumbar region. It paid appellant wage-loss compensation for disability on the supplemental and periodic rolls.

OWCP periodically requested that appellant complete and submit financial disclosure statements (Form EN-1032) which solicited information regarding her employment, volunteer work, dependent(s) status, receipt of other federal benefits and/or payments, and third-party settlements.

In an April 17, 2023 letter, OWCP notified appellant that federal regulations required her to execute an affidavit relative to any earnings or employment during the previous 15 months and that an EN-1032 form was enclosed for that purpose. It advised that she must fully answer all

questions on the enclosed EN-1032 form and return it within 30 days or her benefits would be suspended. OWCP mailed the notice to appellant's last known address of record.

On June 7, 2023 OWCP received a completed Form EN-1032 dated April 17, 2023 from appellant.

By decision dated June 7, 2023, OWCP suspended appellant's wage-loss compensation benefits effective that date, due to her failure to submit a completed EN-1032 form, as requested. It noted that a Form EN-1032 was sent to her for completion, but no reply was received. OWCP advised that if appellant completed and returned the enclosed copy of the EN-1032 form, her compensation benefits would be restored retroactively to the date they were suspended.

The Board, having duly considered this matter, 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 all evidence properly submitted by a claimant and received by OWCP before the final decision is issued. It is crucial that OWCP review 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.²

When OWCP suspended appellant's compensation, it noted that a Form EN-1032 was sent to her for completion, but no reply was received. The Board notes that on June 7, 2023, the same date OWCP issued its final decision, it received appellant's April 17, 2023 Form EN-1032. However, OWCP did not acknowledge receipt of the form in its June 7, 2023 decision.

As OWCP did not review and address appellant's April 17, 2023 Form EN-1032 when it suspended her compensation, the Board finds that this case is not in posture for decision.³ On remand, it shall review all evidence of record and, following any further development as it deems necessary, it shall issue a *de novo* decision.

¹ 41 ECAB 548 (1990); *see also K.B.*, Docket No. 20-1320 (issued February 8, 2021); *R.D.*, Docket No. 17-1818 (issued April 3, 2018).

² *See C.S.*, Docket No. 18-1760 (issued November 25, 2019); *Yvette N. Davis*, 55 ECAB 475 (2004); *Linda Johnson*, 45 ECAB 439 (1994) (wherein the Board found that the principle in *Couch* also applied to situations where evidence was received by OWCP on the same day it issued the decision); *see also William A. Couch, id.*

³ *See C.H.*, Docket No. 11-1624 (issued March 7, 2012) *citing Willie J. Everett*, Docket No. 03-991 (issued October 10, 2003) (where OWCP did not consider the claimant's August 26, 2002 response before suspending his compensation on August 30, 2002, the Board set aside the suspension and remanded the case for consideration of the evidence submitted, *citing Couch*). *See also T.B.*, Docket No. 22-0795 (issued September 12, 2022).

IT IS HEREBY ORDERED THAT the June 7, 2023 decision of the Office of Workers' Compensation is set aside, and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: January 19, 2024
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