United States Department of Labor
Employees' Compensation Appeals Board

V.H., Appellant	)	
and	)	**Docket No. 23-0476**
	)	**Issued: February 13, 2025**
U.S. POSTAL SERVICE, POST OFFICE, Bell Gardens, CA, 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 February 21, 2023 appellant filed a timely appeal from a September 23, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 23-0476.

On November 2, 2006 appellant, then a 41-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on November 1, 2006 she fractured her right foot when she slipped and twisted her foot while stepping on her vehicle footboard. She stopped work on November 2, 2006. OWCP accepted the claim for right metacarpal bone and metatarsal bone fractures, and right plantar fibromatosis. It paid appellant intermittent wage-loss compensation on the supplemental rolls commencing December 18, 2006, and on the periodic rolls effective June 7, 2009 when the employing establishment advised it was unable to provide a modified job within appellant's work restrictions.

On June 24, 2019 OWCP advised appellant of its proposed termination of her wage-loss compensation and medical benefits as she had no further disability or residuals of her accepted November 1, 2006 employment injury.

By decision dated July 26, 2019, OWCP terminated appellant's wage-loss compensation and medical benefits, effective that date. It found that the opinion of Dr. Michael J. Einbund, a

second opinion Board-certified orthopedic surgeon, represented the weight of the evidence and established that she had no further disability or residuals due to her accepted employment injury.

Appellant continued to request reconsideration. By decision dated November 6, 2019, OWCP denied modification of its July 26, 2019 termination decision. Appellant continued to request reconsideration. By decisions dated May 7, and November 23, 2020, OWCP denied appellant's requests for reconsideration pursuant to 5 U.S.C. § 8128(a).

On May 24, 2021 appellant appealed to the Board. By decision dated January 12, 2022, the Board affirmed the November 23, 2020 decision.

On September 17, 2022 appellant filed a claim for a recurrence of disability (Form CA-2a), noting that it was "not recurrence" because she continued to have foot pain and had not returned to work. She also submitted additional medical evidence.

By decision dated September 23, 2022, OWCP denied appellant's recurrence claim, finding noting that the July 26, 2019 termination decision found that she no longer had disability or residuals causally related to her accepted employment injury. It attached a copy of the July 26, 2019 termination decision and advised her to follow the appeal rights that accompanied that decision.

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

The Board notes that section 8124(a) of FECA[1] provides that OWCP shall determine and make findings of fact and make an award for or against payment of compensation. OWCP's regulations at 20 C.F.R. § 10.126 provide that the decision of the Director of OWCP shall contain findings of fact and a statement of reasons. As well, its procedures provide that the reasoning behind OWCP's decision should be clear enough for the reader to understand the precise defect of the claim and the kind of evidence, which would overcome it.[2]

In its September 23, 2022 decision, OWCP did not discharge its responsibility to set forth findings of fact and a clear statement of reasons explaining the disposition so that appellant could understand the basis for the decision.[3] Rather, it summarily denied her claim for a recurrence, noting that her wage-loss compensation and medical benefits had been terminated on July 26, 2019.

The Board will, therefore, set aside OWCP's September 23, 2022 decision and remand the case for a *de novo* decision. Accordingly,

[1] 5 U.S.C. § 8124(a).

[2] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.5 (February 2013).

[3] 20 C.F.R. § 10.126; *Order Remanding Case, E.N.*, Docket No. 21-0339 (issued May 26, 2022); *D.W.*, Docket No. 18-0483 (issued March 7, 2019).

IT IS HEREBY ORDERED THAT the September 23, 2022 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings pursuant to this order of the Board.

Issued: February 13, 2025
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