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B.M., Appellant)	
)	
and)	Docket No. 25-0128
)	Issued: January 16, 2025
DEPARTMENT OF THE INTERIOR,)	
NATIONAL PARK SERVICE, BIG CYPRESS)	
NATIONAL PRESERVE, Ochopee, FL,)	
Employer)	
)	

Case Submitted on the Record

¹ Appellant initially listed the date of injury as October 15, 2012; however, he later explained that this was a mistake as the actual date of injury was October 15, 2021.

marked “Yes” in response to whether the conditions were work related and prescribed restrictions for duty for both feet to include no climbing, no driving, and ambulation of no more than 30 minutes at a time.

OWCP also received an authorization for examination and/or treatment (Form CA-16), accompanied by an undated attending physician’s report, Part B of a Form CA-16, from Dr. Conti. The report included diagnoses of bilateral foot contusion and the same restrictions as contained in his prior form report.

A November 23, 2021 magnetic resonance image (MRI) scan of the left foot revealed mild osteoarthritis of the foot; medial sesamoiditis sclerosis along the lateral sesamoid, most consistent with osteonecrosis; no acute post-traumatic pathology; and that the findings appeared chronic.

A November 24, 2021 state workers’ compensation form report from Dr. Conti again provided a diagnosis of contusion of the left foot.

By decision dated January 4, 2022, OWCP denied appellant’s claim, finding that appellant did not submit any medical evidence containing a diagnosis in connection with the accepted injury and or events. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

OWCP thereafter received a report dated December 22, 2021 from Dr. Lauren Pellacacci, a podiatrist, who diagnosed plantar fasciitis, left ankle sprain, and left heel contusion. In a January 12, 2022 attending physician’s report (Form CA-20), Dr. Pellacacci diagnosed contusion of the left calcaneus, and plantar fasciitis related to the employment activity. He indicated by checking a box marked “Yes” that the diagnosed conditions were employment related.

Dr. Pellacacci continued to treat appellant and OWCP subsequently received February 4 and 17, 2022 treatment notes, again recounting appellant’s diagnoses. In a February 11, 2022 work capacity evaluation (Form OWCP-5c), she advised that appellant was at maximum medical improvement (MMI). In a February 14, 2022 Form OWCP-5c, Dr Pellacacci advised light duty.

On October 14, 2024 appellant requested reconsideration and explained that he was working with J.W., who was in charge of workers’ compensation, but she retired, and it was only within the last few weeks that he was made aware that the invoice for the MRI scan of his foot was never paid.

By decision dated October 15, 2024, OWCP summarily denied appellant’s reconsideration request, finding that it was untimely filed and failed to demonstrate clear evidence of error.

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

OWCP summarily denied appellant’s request for reconsideration without complying with the review requirements of FECA and its implementing regulations. Section 8124(a) of FECA provides that OWCP shall determine and make a finding of fact and make an award for or against payment of compensation.² Its regulations at 20 C.F.R. § 10.126 provide that the decision of the

² 5 U.S.C. § 8124(a).

Director of OWCP shall contain findings of fact and a statement of reasons.³ As well, OWCP's procedures provide that the reasoning behind OWCP's evaluation should be clear enough for the reader to understand the precise defect of the claim and the kind of evidence which would overcome it.⁴

In denying appellant's October 14, 2024 reconsideration request, OWCP failed to explain whether the evidence submitted on reconsideration was sufficient to demonstrate clear evidence of error.⁵

The Board will therefore set aside OWCP's October 15, 2024 decision and remand the case for an appropriate decision on his reconsideration request, which provides detailed reasons for accepting or rejecting the reconsideration request.⁶ Accordingly,

IT IS HEREBY ORDERED THAT the October 15, 2024 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: January 16, 2025
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

³ 20 C.F.R. § 10.126.

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.5 (February 2013) (all decisions should contain findings of fact sufficient to identify the benefit being denied and the reason for the disallowance).

⁵ *Order Remanding Case, J.K.*, Docket No. 20-0556 (issued August 13, 2020); *Order Remanding Case, C.G.*, Docket No. 20-0051 (issued June 29, 2020); *R.C.*, Docket No. 16-0563 (issued May 4, 2016).

⁶ *Order Remanding Case, C.D.*, Docket No. 20-0450 (issued August 13, 2020).