

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

M.S., Appellant))))))
and						
U.S. POSTAL SERVICE, RICHMOND MAIN POST OFFICE, Richmond, VA, Employer))))))

Appearances:

Appellant, pro se

Office of Solicitor, for the Director

Case Submitted on the Record

**Docket No. 25-0447
Issued: June 4, 2025**

ORDER REMANDING CASE

Before:

ALEC J. KOROMILAS, Chief Judge

JANICE B. ASKIN, Judge

VALERIE D. EVANS-HARRELL, Alternate Judge

On March 31, 2025 appellant filed a timely appeal from a March 12, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP).¹ The Clerk of the Appellate Boards assigned the appeal Docket No. 25-0447.

On November 8, 2024 appellant, then a 63-year-old mail processing clerk, filed a traumatic injury claim (Form CA-1) alleging that on October 28, 2024 she developed abdominal pain from performing repetitive activities, including lifting flat tubs of mail and pushing carts, while in the performance of duty. She stopped work on October 28, 2024, and returned to part-time modified duty with restrictions for two hours a day on October 29, 2024.

In an undated document, which contained a diagram of flats from automation processing, appellant noted that her activities included pushing, pulling, and picking up flat tubs.

¹ The Board notes that following the March 12, 2025 decision, OWCP received additional evidence. The Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

In a November 8, 2024 form report, Dr. Eugene Chang, a general surgeon and surgical oncologist, indicated that appellant was “disabled due to illness.” He advised that she may return to light-duty work on November 10, 2024, with lifting and pushing restrictions.

A November 15, 2024 after-visit summary by an unidentified provider noted that appellant was seen by Dr. Chang. It noted that she was diagnosed with incisional hernia without obstruction or gangrene and was scheduled to undergo robotic incisional hernia repair on February 18, 2025.

In November 15 and 19, 2024 duty status reports (Form CA-17), Dr. Chang noted that on October 28, 2024 appellant was pushing an all-purpose container to make dispatch as well as repetitive actions which contributed to her increase in abdominal pain. He diagnosed an incisional hernia as due to the October 28, 2024 incident. In the November 19, 2024 report, Dr. Chang opined that appellant could work light duty.

In a December 30, 2024 development letter, OWCP informed appellant of the deficiencies of her claim, requested that she clarify whether she was claiming a traumatic injury or an occupational disease, and requested additional medical evidence. It afforded her 60 days to respond.

OWCP subsequently received a November 3, 2023 abdomen/pelvis computerized tomography (CT) scan report, which provided an impression of large ventral hernia with no evidence of acute appendicitis. It also received a November 5, 2024 emergency care and general progress notes, from an unidentified provider, which noted a ventral hernia diagnosis.²

In a follow-up development letter dated February 10, 2025, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish her claim. It noted that she had 60 days from the December 30, 2024 letter to submit the necessary evidence. OWCP further advised that if the evidence was not received during this time, it would issue a decision based on the evidence contained in the record.

In a February 17, 2025 statement, appellant related that on October 28, 2024 she experienced an unusually heavy workload, which led to severe abdominal pain that did not subside. She indicated that on November 5, 2024 she went to the emergency room and was provided with work restrictions, but the employing establishment could not find her a job within those restrictions. Appellant noted that she underwent abdominal surgery on January 20, 2025.

On March 12, 2025 OWCP received additional evidence from Dr. Terry D. Times, a general surgeon, including a December 12, 2024 report discussing surgery and other treatment options for the ventral/incisional hernia, and a February 26, 2025 attending physician’s report (Form CA-20) addressing appellant’s employment history of ventral/incisional hernia, including postsurgical treatment. It also received duplicative copies of Dr. Chang’s November 15, 2024 Form CA-17 and appellant’s February 17, 2025 statement.

² On December 30, 2024 appellant indicated that she was retiring effective immediately from the employing establishment.

By decision dated March 12, 2025, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish that the diagnosed medical condition was causally related to the accepted October 28, 2024 employment incident.

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

In the case of *William A. Couch*,³ 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. This principle applies with regard to evidence received by OWCP the same day a final decision is issued.⁴ While OWCP is not required to list every piece of evidence submitted, the Board notes that the December 12, 2024 and February 26, 2025 reports of Dr. Times were not considered and addressed by OWCP in its March 12, 2025 decision. As such, it failed to follow its procedures.⁵

It is crucial that OWCP consider 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.⁶ The Board thus finds that this case is not in posture for a decision as OWCP did not consider and address evidence submitted by appellant in support of her traumatic injury claim.⁷ On remand, OWCP shall review all evidence of record and, following any further development as deemed necessary, it shall issue a *de novo* decision. Accordingly,

³ 41 ECAB 548 (1990); *see also Order Remanding Case, D.O.*, Docket No. 25-0050 (issued December 20, 2024); *Order Remanding Case, P.B.*, Docket No. 24-0368 (issued May 22, 2024); *Order Remanding Case, A.D.*, Docket No. 22-0519 (issued January 11, 2023); *Order Remanding Case, A.B.*, Docket No. 22-0179 (issued June 28, 2022); *Order Remanding Case, S.H.*, Docket No. 19-1582 (issued May 26, 2020); *R.D.*, Docket No. 17-1818 (issued April 3, 2018).

⁴ *See S.B.*, Docket No. 24-0774 (issued September 25, 2024); *Order Remanding Case, S.S.*, Docket No. 19-1737 (issued April 7, 2020); *Order Remanding Case, J.S.*, Docket No. 16-0505 (issued July 18, 2016); *Linda Johnson*, 45 ECAB 439 (1994) (OWCP must review all evidence relevant to the subject matter and received by OWCP before issuance of its final decision, including medical reports received on the same day it issues its decision).

⁵ OWCP's procedures provide that all evidence submitted should be reviewed and discussed in the decision. Evidence received following development that lacks probative value should also be acknowledged. Whenever possible, the evidence should be referenced by author and date. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Denials*, Chapter 2.1401.5b(2) (November 2012). *See also E.D.*, Docket No. 20-0620 (issued November 18, 2020); *Linda Johnson, id.*; *William A. Couch, supra* note 3.

⁶ *See Order Remanding Case, A.B.*, *supra* note 3; *Order Remanding Case, A.D.*, *supra* note 3; *Order Remanding Case, C.S.*, Docket No. 18-1760 (issued November 25, 2019); *Yvette N. Davis*, 55 ECAB 475 (2004); *see also William A. Couch, supra* note 3.

⁷ *See Order Remanding Case, D.O.*, *supra* note 3; *V.C.*, Docket No. 16-0694 (issued August 19, 2016).

IT IS HEREBY ORDERED THAT the March 12, 2025 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: June 4, 2025
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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