

² The Board notes that following the May 28, 2024 decision, appellant submitted additional evidence to OWCP. However, 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.*

its relationship to her federal employment on January 15, 2010. By decision dated April 9, 2010, OWCP accepted the claim for tear of left medial meniscus. By decision dated April 16, 2010, it expanded the acceptance of appellant's claim to include left plantar fasciitis, right Achilles tendinitis, and bilateral sprain of foot, tarsometatarsal.³

On July 11, 2022 appellant filed a claim for compensation (Form CA-7) for disability from work for the period June 21 through July 1, 2022. She continued to file CA-7 forms for additional periods of disability thereafter.

Appellant submitted medical evidence in support of her claim.

By decision dated October 16, 2023, OWCP denied appellant's claim for a recurrence of disability finding that the medical evidence of record was insufficient to establish that she was disabled from work during the claimed period due to a material change/worsening of her accepted employment injuries.

Following OWCP's October 16, 2023 decision, appellant submitted additional evidence in support of her claim.

On April 1, 2024 appellant requested reconsideration. In support of her claim, she submitted additional medical evidence.

On May 28, 2024 OWCP received an April 25, 2024 medical report, wherein Dr. Chul Kim, Board-certified in internal medicine and podiatric surgery, reported that appellant returned for a follow up of the left foot plantar fasciitis status post plantar fasciectomy. He noted that she finished her course of multimodality therapy and complained of some residual pain to the area as well as compensatory pain to the right heel due to the Achilles tendinitis. Dr. Kim noted physical examination findings of well-healed left foot surgical incision site, no signs of dehiscence, some paresthesia and fibrosis, tight Achilles tendon limiting ankle dorsiflexion bilaterally, and palpable/range of motion tenderness along the right Achilles tendon especially at the insertion area. He diagnosed left foot plantar fasciitis status post plantar fasciectomy and right Achilles tendinitis.

By decision dated May 28, 2024, OWCP denied modification of the October 16, 2023 decision.

The Board, having duly considered this matter, finds that the case is not in posture for decision.⁴

³ The record reflects that appellant previously filed a traumatic injury claim (Form CA-1) on July 7, 2017 for injuries sustained to her right lower extremity when walking while in the performance of duty. OWCP assigned the claim OWCP File No. xxxxxx74. By decision dated September 28, 2017, OWCP accepted the claim for plantar fascial fibromatosis. OWCP administratively combined the claims, designating OWCP File No. xxxxxx443 as the master file.

⁴ See *Order Remanding Case, K.Y.*, Docket No. 22-0743 (issued December 1, 2022).

In the case of *William A. Couch*,⁵ the Board held that, when adjudicating a claim, OWCP is obligated to review 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.⁶ While OWCP is not required to list every piece of evidence submitted to the record, the record is clear that Dr. Kim's April 25, 2024 medical report received on May 28, 2024 was not referenced or reviewed by OWCP in its May 28, 2024 decision.⁷ As it did not consider or address this medical evidence of record, it failed to follow its own procedures by not considering all relevant medical reports of record.⁸

As the Board's decisions are final as to the subject matter appealed, it is crucial that OWCP review all evidence received prior to the issuance of its final decision.⁹ The Board finds that this case is not in posture for decision as OWCP did not review the above-noted evidence in its May 28, 2024 decision.¹⁰

On remand, OWCP shall consider and address all evidence of record. Following this and other such further development as deemed necessary, it shall issue a *de novo* decision. Accordingly,

⁵ 41 ECAB 548 (1990); *see also R.D.*, Docket No. 17-1818 (issued April 3, 2018).

⁶ *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). *See also S.B.*, Docket No. 24-0774 (issued September 25, 2024).

⁷ *Order Remanding Case, W.W.*, Docket No. 21-1432 (issued February 23, 2023); *Order Remanding Case, J.N.*, Docket No. 21-0086 (issued May 17, 2021); *Order Remanding Case, C.D.*, Docket No. 20-0168 (issued March 5, 2020).

⁸ *Order Remanding Case, G.A.*, Docket No. 21-0862 (issued June 8, 2022); *E.P.*, Docket No. 20-0655 (issued March 17, 2021).

⁹ *See 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 5.

¹⁰ *See Order Remanding Case, V.C.*, Docket No. 16-0694 (issued August 19, 2016).

IT IS HEREBY ORDERED THAT the May 28, 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: May 13, 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