

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

<p>S.T., Appellant</p> <p>and</p> <p>FEDERAL JUDICIARY, U.S. DISTRICT COURT, Raleigh, NC, Employer</p>)))))))
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Appearances:

Appellant, pro se

Office of Solicitor, for the Director

Case Submitted on the Record

**Docket No. 25-0917
Issued: January 14, 2026**

ORDER REMANDING CASE

Before:

ALEC J. KOROMILAS, Chief Judge

PATRICIA H. FITZGERALD, Deputy Chief Judge

VALERIE D. EVANS-HARRELL, Alternate Judge

On September 26, 2025 appellant filed a timely appeal from a September 19, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP).¹ The Clerk of the Appellate Boards docketed the appeal as No. 25-0917.

On December 8, 2021 appellant, then a 45-year-old clerk of court, filed an occupational disease claim (Form CA-2) alleging that she developed right lateral epicondylitis causally related to factors of her federal employment. She noted that she first became aware of her condition on August 8, 2011 and realized its relation to her federal employment on August 13, 2021. OWCP initially accepted appellant's claim for right lateral epicondylitis and ulnar nerve lesion of an unspecified upper limb, and later expanded the acceptance of the claim to include radial nerve lesion of the right upper limb.

On June 24, 2024 OWCP received a request for authorization of right arm, thumb, and index finger surgery to be performed by Dr. Reid W. Draeger, a Board-certified orthopedic surgeon.

¹ The Board notes that appellant submitted additional evidence to OWCP and on appeal to the Board. 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.*

In a June 28, 2024 letter sent to the medical provider, OWCP advised that appellant's request for authorization of surgery, characterized as "revise arm/leg nerve," had been approved. The letter listed the beginning date of authorization as July 9, 2024.

In a July 9, 2024 surgical report, Dr. Draeger discussed his neuroplasty of the right posterior interosseous nerve and right superficial radial nerve, right radial tunnel decompression, tendon lengthening of the right upper arm/elbow, and fractional lengthening of the right extensor carpi radialis brevis performed on that date. The case record contains reports by other medical providers associated with appellant's July 9, 2024 surgery, as well as post-surgery reports by Dr. Draeger.

In an April 24, 2025 letter sent to the medical provider hospital, OWCP advised that appellant's request for authorization of surgery, characterized as "arm tendon lengthening," could not be approved at the time as further medical development was needed before a determination could be made. The letter listed the requested beginning date of authorization as July 9, 2024.

On July 10, 2025 OWCP referred the case to Dr. Nathan Hammel, a Board-certified orthopedic surgeon, serving an OWCP district medical adviser. It requested that he provide an opinion regarding whether the July 9, 2024 surgery was necessitated by appellant's accepted employment conditions.

In a July 22, 2025 report, Dr. Hammel responded "Yes" to a question regarding whether the July 9, 2024 surgery² was causally related to the accepted employment conditions, and "Yes" to a question regarding whether the surgery was medically necessary. He opined that, in a July 9, 2024 report, Dr. Draeger provided clear rationale for surgical treatment. Dr. Hammel stated, "As noted previously the requested surgery is both related to the workplace condition and medically necessary. The recommendation is for approval as requested."

By decision dated September 19, 2025, OWCP denied appellant's request for tendon lengthening surgery. It discussed the accepted conditions and noted that it received an authorization request for tendon lengthening surgery and stated, "As of September 19, 2025, the request is still not in the treatment suite and therefore is denied."

The Board, having duly considered this matter, finds that the 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. OWCP's September 19, 2025 decision, however, only noted that appellant's request for authorization of surgery "is still not in the treatment suite and therefore is denied." In its September 19, 2025 decision, OWCP did not review the relevant medical evidence

² OWCP characterized the surgery as "neuroplasty major peripheral nerve arm/leg, not specified, right radial tunnel decompression with neuroplasty of posterior interosseous nerve and superficial brand radial nerve ... and tendon lengthening upper arm elbow single each, fractional lengthening of right extensor carpi radialis brevis...."

³ *William A. Couch*, 41 ECAB 548, 553 (1990); *see also 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).

of record, including the July 22, 2025 report of Dr. Hammel, the DMA. As such, it failed to follow its procedures by properly reviewing and discussing all of the evidence of record.⁴

As Board decisions are final with regard to the subject matter appealed, it is crucial that OWCP consider and address all relevant evidence received prior to the issuance of its final decision.⁵ On remand, OWCP shall review all evidence properly submitted by appellant regarding her request for authorization of the July 9, 2024 surgery. Following this and other such further development as deemed necessary, it shall issue a *de novo* decision. Accordingly,

IT IS HEREBY ORDERED THAT the September 19, 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: January 14, 2026
Washington, DC

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

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

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

⁴ 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).

⁵ See A.B., *supra* note 3; 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.