

¹ The Board notes that, following the December 18, 2025 decision, appellant submitted additional evidence to OWCP. However, the Board’s *Rules of Procedures* 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.*

and opined the conditions were caused or aggravated by the employment activity described, *i.e.*, the alleged June, 10, 2023 employment injury.

By decision dated July 19, 2023, OWCP accepted the claim for left wrist contusion, lumbar strain, and lumbar contusion.

Following acceptance of his claim, appellant continued to submit medical evidence.

In a July 10, 2023 report, Dr. Robert evaluated appellant following a fall at work on June 10, 2023 when he tripped coming out of the elevator. He diagnosed underlying degenerative changes of the lumbar spine and contusion and strain of the lumbar spine.

In reports, work status notes, and therapy protocols dated September 12, 2023 through March 5, 2024, Dr. Robert L. Shackleton, a Board-certified orthopedic surgeon, documented treatment for appellant's lumbar condition and diagnosed lumbar spinal stenosis. He administered epidural steroid injections, documented appellant's work status and restrictions, and recommended physical therapy protocols for his injury.

Appellant also submitted an October 5, 2023 magnetic resonance imaging (MRI) scan of the lumbar spine and a January 12, 2024 operative report from Dr. Fred Chiu, a Board-certified physiatrist, documenting epidural steroid injections for bilateral lumbar radiculitis.

In progress reports dated December 19, 2024 and January 30, 2025, Dr. Joseph B. Boucree, a Board-certified orthopedic surgeon, provided examination findings and diagnosed contusion of left wrist, initial encounter; strain of muscle fascia and tendon of lower back, initial encounter; and contusion of lower back and pelvis, initial encounter.

In a September 19, 2025 report, Dr. Boucree requested OWCP expand the acceptance of appellant's claim to include the additional conditions of lumbar radiculopathy, lumbar herniated disc, and lumbar spinal stenosis as causally related to the original employment injury. He asserted that the conditions had been confirmed through medical evaluations and consistent with the mechanism of injury from appellant's employment duties.

In a September 24, 2025 development letter, OWCP informed appellant of the deficiencies of his request for expansion and allotted him 30 days to submit the necessary evidence.

OWCP subsequently received Dr. Boucree's progress reports dated February 27, June 12, and August 12, 2025 documenting treatment for appellant's conditions.

In the October 9, 2025 narrative report, Dr. Boucree reported that appellant's initial lumbar strain sustained during the employment injury likely initiated a cascade of soft tissue inflammation and biomechanical stress, subsequently leading to lumbar radiculopathy and contributing to lumbar stenosis which were consistent with his symptoms and progression of his condition. He opined that his conditions were caused by the June 10, 2023 employment injury.

By decision dated November 10, 2025, OWCP denied expansion of the acceptance of the claim, finding that the evidence of record was insufficient to establish the additional medical

conditions of lumbar radiculopathy, lumbar herniated disc, and lumbar spinal stenosis as causally related to, or consequential to, the accepted employment injury.

On December 12, 2025, appellant requested a review of the written record before a representative of OWCP's Branch of Hearings and Review. In support thereof, he resubmitted Dr. Boucree's October 9, 2025 report, which was previously of record.

By decision dated December 18, 2025, OWCP denied appellant's request for a review of the written record, finding that the request was not made within 30 days of the November 10, 2025 decision and, therefore, was untimely filed. It further exercised its discretion and determined that the issue in the case could equally well be addressed through a request for reconsideration before OWCP along with the submission of new evidence.

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

In the case of *William A. Couch*,² the Board held that, when adjudicating a claim, OWCP is obligated to consider all evidence and address all evidence properly submitted by a claimant and received by OWCP before the final decision is issued. However, the Board notes that the case record contains Dr. Shackleton's reports dated September 12, 2023 through March 5, 2024 which documented treatment for lumbar spinal stenosis, a condition which has been requested for expansion of the claim. Dr. Robert's July 10, 2023 report documents underlying degenerative changes of the lumbar spine while Dr. Chiu's January 12, 2024 report documents treatment for lumbar radiculitis. OWCP, however, did not review this evidence in its November 10, 2025 merit decision. As such, it failed to follow its procedures by properly reviewing and discussing all of the evidence of record.³

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.⁴ On remand, OWCP shall review all evidence properly submitted by appellant. Following this and other such further development as deemed necessary, it shall issue a *de novo* decision. Accordingly,

² 41 ECAB 548, 553 (1990); *Order Remanding Case, A.B.*, Docket No. 22-0179 (issued June 28, 2022).

³ 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).

⁴ See *C.S.*, Docket No. 18-1760 (issued November 25, 2019); *Yvette N. Davis*, 55 ECAB 475 (2004).

IT IS HEREBY ORDERED THAT the November 10, 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. The December 18, 2025 decision of the Office of Workers' Compensation Programs is set aside as moot.

Issued: June 2, 2026
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