

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

M.D., Appellant

and

**U.S. POSTAL SERVICE, NATIONAL
DISTRIBUTION CENTER, Seattle, WA,
Employer**

)
)
)
)
)
)
)
)
)

**Docket No. 10-2261
Issued: June 28, 2011**

Appearances:
Rainer Brown, for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:
RICHARD J. DASCHBACH, Chief Judge
ALEC J. KOROMILAS, Judge
COLLEEN DUFFY KIKO, Judge

On September 8, 2010 appellant, through his representative, filed a timely appeal from a June 2, 2010 merit decision of the Office of Workers' Compensation Programs denying his occupational disease claim and an August 27, 2010 nonmerit decision denying his request for reconsideration. The Board docketed the appeal as No. 10-2261.

The Board has considered the matter and notes that in the case of *William A. Couch*¹ it held that, when adjudicating a claim, the Office is obligated to consider all evidence properly submitted by a claimant and received by the Office before the final decision is issued. On April 27, 2010 appellant, then a 58-year-old mail handler, filed an occupational disease claim alleging that he sustained bilateral arm pain extending from his elbows to hands causally related to factors of his federal employment. By letter dated April 29, 2010, the Office requested additional factual and medical information, including a detailed report from appellant's physician addressing the relationship between any bilateral arm or hand condition and factors of his federal employment.

In a report dated April 26, 2010, received by the Office on June 1, 2010, Dr. Kelvin K. Ma, a Board-certified neurologist, discussed appellant's complaints of pain in the left shoulder,

¹ 41 ECAB 548 (1990).

right arm and neck, intermittent pain over the left elbow radiating into the left forearm and numbness in both hands. He noted that appellant attributed his symptoms to lifting, pushing and pulling during the course of his federal employment. Dr. Ma requested that a claim be opened “for arms and hands bilaterally, to rule out carpal tunnel syndrome, rule out ulnar neuropathy, rule out thoracic outlet syndrome, and rule out cervical radiculopathy.”

By decision dated June 2, 2010, the Office denied appellant’s claim after finding that he had not submitted any medical evidence in support of his claim and thus had not shown a condition causally related to the accepted work factors. It indicated that he had not responded to its April 29, 2010 request for information. The Board thus concludes that the Office did not review the April 26, 2010 medical report entered into the record on June 1, 2010.

As appellant submitted evidence which was received but not reviewed by the Office prior to the issuance of its last merit decision dated June 2, 2010, the case will be remanded to the Office for consideration of all the evidence submitted at the time of its June 2, 2010 decision. Following such further development as the Office deems necessary, it shall issue a *de novo* decision.

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers’ Compensation Programs dated August 27 and June 2, 2010 are set aside and the case is remanded for further proceedings consistent with this order.

Issued: June 28, 2011
Washington, DC

Richard J. Daschbach, Chief Judge
Employees’ Compensation Appeals Board

Alec J. Koromilas, Judge
Employees’ Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees’ Compensation Appeals Board