



limited to reviewing that evidence which is before OWCP at the time of its final decision,<sup>4</sup> it is necessary that OWCP review all evidence submitted by a claimant and received by OWCP prior to issuance of its final decision. As the Board's decisions are final as to the subject matter appealed,<sup>5</sup> it is crucial that all evidence relevant to that subject matter which was properly submitted to OWCP prior to the time of issuance of its final decision be addressed by OWCP.<sup>6</sup> The Board has held that this principal applies with equal force when evidence is received by OWCP the same day a final decision is issued.<sup>7</sup>

In the present case, OWCP did not review evidence received on December 12, 2011, the date of issuance of its December 12, 2011 decision. In particular, it did not consider the December 6 and 7, 2011 reports of Dr. Frederick B. McAdam, an attending Board-certified psychiatrist. The Board, therefore, must set aside the December 12, 2011 decision of OWCP and remand the case so that OWCP may fully consider the evidence that was properly submitted by appellant prior to the issuance of this decision. Following such further consideration and after such further development as it deems necessary, OWCP shall issue an appropriate decision on appellant's recurrence of total disability claim.<sup>8</sup>

---

<sup>4</sup> See 20 C.F.R. § 501.2(c)(1).

<sup>5</sup> *Id.* at § 501.6(d).

<sup>6</sup> *William A. Couch*, 41 ECAB 548, 553 (1990).

<sup>7</sup> *Linda Johnson*, 45 ECAB 439 (1994).

<sup>8</sup> Given the Board's disposition of the merit issue in this case, OWCP's January 18, 2012 nonmerit decision is moot.

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated December 12, 2011 be set aside and the case remanded for further action in conformance with this order of the Board.

Issued: July 25, 2012  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board