

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

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<b>E.G., Appellant</b>	)	
	)	
<b>and</b>	)	<b>Docket No. 18-0793</b>
	)	<b>Issued: April 18, 2019</b>
<b>U.S. POSTAL SERVICE, GENERAL MAIL</b>	)	
<b>FACILITY, Portland, OR, Employer</b>	)	
_____	)	

*Appearances:*  
Dianne Guzman, for the appellant<sup>1</sup>  
Office of Solicitor, for the Director

*Case Submitted on the Record*

**ORDER REMANDING CASE**

Before:  
CHRISTOPHER J. GODFREY, Chief Judge  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
ALEC J. KOROMILAS, Alternate Judge

On March 5, 2018 appellant, through his representative, filed a timely appeal from a February 22, 2018 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 18-0793.

On December 22, 2014 appellant, then a 45-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that on December 18, 2014 he sustained lumbar, hip and thoracic strains when the forklift he was operating dropped from the trailer to the ground. OWCP accepted the claim for buttocks contusion, thoracic and lumbar sprains, and trochanteric bursitis, which was expanded to include concussion, hip region enthesopathy, right forearm sprain, and dizziness and giddiness. Appellant stopped work on December 18, 2014 and was placed on the periodic rolls for temporary total disability by letter dated April 22, 2015.

On September 8, 2017 OWCP received a request for authorization for hearing aids. The record contains reports dated September 22 and October 19, 2017 from Dr. Danielle L. Erb, a

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<sup>1</sup> In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; see also 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

treating Board-certified psychiatrist, attributing his hearing loss to the accepted December 18, 2014 work injury and recommending hearing aids.

By decision dated February 22, 2018, OWCP denied authorization for hearing aids. It noted that no evidence had been received in support of the authorization request for hearing aids.

Board precedent holds that OWCP must review all the evidence submitted by a claimant and received by OWCP prior to the issuance of a final decision.<sup>2</sup> As the Board's jurisdiction is final as to the subject matter, it is crucial that OWCP accomplish this.<sup>3</sup>

The Board finds that OWCP was incorrect that no medical evidence had been submitted in support of appellant's request for hearing aids. OWCP did not consider the medical evidence submitted by appellant in reaching its decision denying authorization for hearing aids, including Dr. Erb's September 26, 2017 report received by OWCP on October 6, 2017, and the October 19, 2017 report received on October 20, 2017. As OWCP did not consider the September 26 and October 6, 2017 reports, the Board concludes that the case must be remanded for review of this evidence. Following any further necessary development, OWCP shall issue an appropriate decision to protect appellant's rights to future appeals

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated February 22, 2018 is set aside and the case is remanded for further action consistent with this order of the Board.

Issued: April 18, 2019  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

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

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

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<sup>2</sup> See *M.B.*, Docket No. 09-0176 (issued September 23, 2009); *Yvette N. Davis*, 55 ECAB 475 (2004); *Linda Johnson*, 45 ECAB 439 (1994); *William A. Couch*, 41 ECAB 548 1990; 20 C.F.R. § 506.6(c).

<sup>3</sup> See *id.*