

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

G.F., Appellant)	
)	
and)	Docket No. 23-0597
)	Issued: August 15, 2023
U.S. POSTAL SERVICE, MARTINEZ MAIN)	
POST OFFICE, Martinez, CA, Employer)	
)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

On March 17, 2023 appellant filed a timely appeal from a February 27, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 23-0597.

On October 28, 2022 appellant, a 74-year-old postal support employee mail processing clerk, filed a traumatic injury claim (Form CA-1) alleging that on September 21, 2022 she sustained right shoulder and hand injuries when she braced herself with her right hand as she tripped over a pallet jack, and fell onto her right shoulder, while in the performance of duty. She stopped work on September 21, 2022. By decision dated January 10, 2023, OWCP accepted the claim for right shoulder, right wrist, and right knee contusions.

Appellant's treating physician Dr. John Changhwan Kim, Board-certified in occupational medicine, submitted progress reports dated October 20, 2022 wherein he provided examination findings, and diagnosed right shoulder and wrist contusions, and right knee joint pain. He advised that appellant was capable of performing modified work with restrictions for the period October 20 through November 17, 2022. Restrictions included no standing or walking more than five minutes per hour, no reaching above the shoulder, no repetitive right-hand motion, no right-hand gripping or grasping, and no lifting, pushing, carrying, or pulling more than five pounds. He noted that appellant was not working due to a lack of accommodation.

In progress notes dated November 17, 2022, Dr. Kim detailed examination findings and diagnosed right shoulder and wrist contusions, and right knee joint pain. He found appellant capable of performing modified work with restrictions for the period November 17 through December 29, 2022. The restrictions included no reaching above the shoulder and no lifting, carry, pushing, or pulling more than five pounds.

Appellant filed claims for compensation (Form CA-7) claiming disability from work for the period November 6 through December 23, 2022.

Dr. Kim, in progress report dated December 16, 2022, diagnosed right knee and wrist contusion, right shoulder sprain, and right shoulder osteoarthritis. He found appellant was capable of working with restrictions including no reaching above the shoulder and no lifting, carrying, pushing, or pulling more than five pounds. Dr. Kim noted the period of modified work was from December 16 to 29, 2022.

In a development letter dated January 10, 2023, OWCP noted receipt of the Form CA-7 claiming compensation for the period November 6, 2022 and continuing. It informed appellant that no evidence had been received to support the claim, and advised her of the evidence required. OWCP afforded appellant 30 days to provide the requested information.

In progress reports dated February 3, 2023, Dr. Kim diagnosed right shoulder joint and knee pain and right shoulder, wrist, and knee contusions. He discharged appellant from his care and released her to return to full unrestricted work effective February 3, 2023.

By decision dated February 27, 2023, OWCP denied appellant's claim for disability from work for the period November 6 to December 23, 2022. It indicated that the only medical evidence received were primary treating physician's progress reports from Dr. Kim dated November 17 and February 3, 2023, and a February 3, 2023 telephone appointment visit note from Dr. Kim.

The Board has duly considered the matter and finds that this case is not in posture for a decision.

In the case of *William A. Couch*,¹ the Board held that, when adjudicating a claim, OWCP is obligated to consider and address all evidence properly submitted by a claimant and received by OWCP before the final decision is issued.

In its February 27, 2023 decision, OWCP failed to consider the evidence received prior to its January 10, 2023 development letter which addressed appellant's disability status during the period claimed. This included progress reports dated October 20 and December 16, 2022 from Dr. Kim. As such, it failed to follow its procedures by properly reviewing and discussing all of

¹ 41 ECAB 548 (1990); *see also Order Remanding Case, A.D.*, Docket No. 22-0519 (issued January 11, 2023); *A.B.*, Docket No. 22-0179 (issued June 28, 2022); *S.H.*, Docket No. 19-1582 issued May 26, 2020); *R.D.*, Docket No. 17-1818 (issued April 3, 2018).

the evidence of record.² It is crucial that OWCP consider and address all evidence relevant to the subject matter properly submitted prior to the issuance of its final decision, as the Board's decisions are final with regard to the subject matter appealed.³

The Board thus finds that this case is not in posture for a decision as OWCP did not consider and address the evidence submitted by appellant in support of her claim for compensation.⁴ On remand, OWCP shall review all evidence of record and, following any further development it deems necessary, it shall issue a *de novo* decision. Accordingly,

IT IS HEREBY ORDERED THAT the February 27, 2023 decision of the Office of Workers' Compensation Programs is set aside and the case remanded for further proceedings consistent with this order of the Board.

Issued: August 15, 2023
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board

² All evidence submitted should be reviewed and discussed in the decision. Evidence received following development that lacks probative values 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).

³ See *A.D.*, *supra* note 1; *A.B.*, *supra* note 1; *C.S.*, Docket No. 18-1760 (issued November 25, 2019); *Yvette N. Davis*, 55 ECAB 475 (2004); see also *William A. Couch*, *supra* note 1.

⁴ See *A.B.*, *id.*; *S.H.*, *supra* note 1; *V.C.*, Docket No. 16-0694 (issued August 19, 2016).