

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

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Y.H., Appellant)	
)	
and)	Docket No. 24-0679
)	Issued: August 21, 2024
U.S. POSTAL SERVICE, POST OFFICE,)	
San Antonio, TX, Employer)	
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Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
JAMES D. McGINLEY, Alternate Judge

On June 11, 2024 appellant filed a timely appeal from a June 4, 2024 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 24-0679.

On July 28, 2020 appellant, then a 47-year-old lead sales and service associate, filed an occupational disease claim (Form CA-2) alleging that she sustained bilateral knee conditions causally related to factors of her federal employment including standing all day on hard concrete floors. She noted that she first became aware of her condition and its relationship to her federal employment on March 20, 2020. OWCP accepted appellant's claim for bilateral chondromalacia patellae of the knees, sprain of the anterior cruciate ligament of the left knee, and tear of the medical meniscus of the right knee.

In a duty status report (Form CA-17) dated September 21, 2020, Dr. Thomas Martens, an osteopath specializing in family medicine, diagnosed derangements of the patellae of the bilateral knees, a tear of the medial meniscus of the right knee, and left knee bursitis. He advised that appellant was capable of resuming work as of that date, and recommended work restrictions of lifting/carrying no more than 5 pounds continuously and 20 pounds intermittently; no climbing, kneeling, or reaching above the shoulder; and standing and walking no more than four hours per day. Dr. Martens further recommended that appellant be permitted to wear a knee brace as needed

at work. He reiterated appellant's ability to perform work with the same restrictions in a Form CA-17 dated October 19, 2020.

On April 8, 2024 appellant filed a claim for compensation (Form CA-7) for leave without pay on October 14 and 16, 2020. In an accompanying time analysis form (Form CA-7a) of even date, she claimed eight hours of leave without pay on October 14 and 16, 2020 due to incapacitation. Appellant noted that she was not claiming compensation for October 15, 2020 as she used sick leave on that day.

In a development letter dated April 10, 2024, OWCP informed appellant of the deficiencies of her disability claim. It advised her of the type of additional medical evidence needed to establish her claim and afforded her 30 days to submit the necessary evidence.

On April 10, 2024 OWCP received additional medical reports from Dr. Martens, as well as diagnostic studies and physical therapy reports.

By decision dated June 4, 2024, OWCP denied appellant's wage-loss compensation claim for intermittent disability from work during October 14 and 16, 2020, finding that the medical evidence of record was insufficient to establish causal relationship between the claimed disability and the accepted employment injury.

The Board, having considered this matter, finds that the case is not in posture for 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 June 4, 2024 decision, OWCP found that appellant had not submitted any evidence in support of his claim. It failed to consider and address over 100 pages of medical reports. As such, it failed to follow its procedures by properly reviewing and discussing all of 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 As OWCP's decision did not consider and address the evidence appellant submitted on April 10, 2024, the Board finds that this case is not in posture for decision. On remand, it shall review all evidence of record and, following any further development as deemed necessary, it shall issue an appropriate decision. Accordingly,

¹ 41 ECAB 548 (1990).

² 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).

³ See *Order Remanding Case, 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.

IT IS HEREBY ORDERED THAT the June 4, 2024 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.

Issued: August 21, 2024
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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