

On January 2, 2014 appellant filed a notice of recurrence (Form CA-2a) alleging that while performing limited-duty work on December 11, 2013, his neck and back conditions had worsened such that his physician held him off work. He attributed the recurrence of disability to standing, walking, bending, stretching, and lifting while at work following the claimed May 30, 2013 employment incident. OWCP developed the recurrence claim as one for a new injury. It assigned OWCP File No. xxxxxx795.

Appellant subsequently submitted evidence regarding her disability status under OWCP File No. xxxxxx474. In reports dated from February 10 through May 7, 2014 report, Dr. Lyzette Velazquez, a Board-certified neurologist, recounted a history of injury and treatment. She diagnosed cervical spondylosis with myelopathy, lumbosacral neuritis, and shoulder sprain. Dr. Velazquez held appellant off work for the period February 10, 2023 onward.

In a May 22, 2014 report, Dr. Arnold B. Wilson, a Board-certified orthopedic surgeon, recounted the May 20, 2013 employment injury. He diagnosed neck, lower back, and right shoulder injuries with a possible shoulder dislocation following the employment injury. Dr. Wilson opined that appellant remained disabled from work.

In a February 12, 2015 report, Dr. Wilson opined that limited-duty work from May through mid-December 2013 caused additional nerve root irritation and inflammation “due to the impression of the building and herniated discs on his spinal cord” and aggravated the diagnosed conditions. He opined that appellant was disabled from work. Dr. Wilson submitted periodic reports through September 9, 2015, wherein he diagnosed multilevel herniated cervical discs, cervical radiculopathy, right shoulder impingement, and a possible right labral tear. He continued to hold appellant off work and recommended right shoulder arthroscopy.

Dr. Sireen Gopal, Board-certified in physiatry, pain medicine, and neuromuscular medicine, submitted reports dated from March 26 through April 23, 2015, wherein he noted the accepted employment injury and diagnosed cervical radiculitis, cervical spondylosis, lumbar radiculopathy, and worsening of lumbosacral arthritis. He advised appellant remained disabled from work.

On October 26, 2015 appellant underwent OWCP-authorized right shoulder arthroscopy with extensive debridement and subacromial decompression, performed by Dr. Wilson. Dr. Wilson submitted periodic reports through July 7, 2016, wherein he opined appellant disabled from work through September 1, 2016.

On March 23, 2018 OWCP accepted the claim under OWCP File No. xxxxxx795 for impingement syndrome of right shoulder, right shoulder sprain, and partial right rotator cuff tear, resolved by March 12, 2018.

On October 9, 2018 OWCP administratively combined OWCP File No. xxxxxx795 with OWCP File No. xxxxxx474, with the latter designated as the master file.

On April 20, 2020 appellant filed a claim for compensation (Form CA-7), under OWCP File No. xxxxxx795, for total disability from work for the period December 11, 2013 through March 22, 2018.

In a development letter dated October 8, 2021, OWCP informed appellant of the deficiencies of his disability claim. It advised him of the type of factual and medical evidence needed and afforded him 30 days to respond.

On June 2, 2023 OWCP expanded its acceptance of the claim under OWCP File No. xxxxxx474 to include right shoulder impingement syndrome and right rotator cuff tear or rupture.

By decision dated December 22, 2023, OWCP denied appellant's claim for disability from work for the period December 11, 2013 through March 22, 2018, finding that he "did not submit any evidence in support of [his] claim for wage loss."

The Board, having duly considered this matter, finds that the case is not in posture for decision.

In the case of *William A. Couch*,² 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 December 22, 2023 decision, OWCP found that appellant had not submitted "any evidence in support of [his] claim for wage loss." It failed to consider and address the reports from Dr. Velazquez dated from February 10 through May 7, 2014, the reports from Dr. Wilson dated from May 22, 2014 through July 7, 2016, including the October 26, 2015 operative note describing OWCP-authorized right shoulder arthroscopy, and the reports from Dr. Gopal dated from March 16 through April 23, 2015, which addressed appellant's diagnoses and disability status. As such, it failed to follow its procedures by properly reviewing and discussing all of the evidence of record.³ 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.⁴

The Board thus finds that this case is not in posture for a decision as OWCP did not consider and address evidence submitted by appellant in support of his disability claim.⁵ On remand,

² 41 ECAB 548 (1990); *see also Order Remanding Case, P.B.*, Docket No. 24-0368 (issued May 22, 2024); *Order Remanding Case, A.D.*, Docket No. 22-0519 (issued January 11, 2023); *Order Remanding Case, A.B.*, Docket No. 22-0179 (issued June 28, 2022); *Order Remanding Case, S.H.*, Docket No. 19-1582 (issued May 26, 2020); *R.D.*, Docket No. 17-1818 (issued April 3, 2018).

³ 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).

⁴ *See A.B.*, *supra* note 3; *A.D.*, *supra* note 3; *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 3.

⁵ *See P.B.*, *supra* note 3; *A.B.*, *supra* note 3; *V.C.*, Docket No. 16-0694 (issued August 19, 2016).

OWCP shall review all evidence of record and, following any further development as deemed necessary, it shall issue a *de novo* decision. Accordingly,

IT IS HEREBY ORDERED THAT the December 22, 2023 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: July 25, 2024
Washington, DC

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

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

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