

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

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A.G., Appellant)	
)	
and)	
)	Docket No. 24-0138
)	Issued: June 25, 2024
U.S. POSTAL SERVICE, POST OFFICE,)	
Fort Worth, 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 November 30, 2023 appellant filed a timely appeal from a June 15, 2023 decision of the Office of Workers' Compensation Programs (OWCP) which denied his request for reconsideration of the merits of his claim pursuant to 5 U.S.C. § 8128(a). The Clerk of the Appellate Boards assigned Docket No. 24-0138.

OWCP has accepted that on April 9, 2012 appellant, a city carrier, sustained concussion without loss of consciousness, face/scalp contusion, and post-traumatic headache when an overhead garage door on the loading dock dropped down and struck his forehead in the performance of duty. He complained of headaches and stopped work on that day. Appellant was off work for several weeks and received continuation of pay. The record reflects that his city carrier appointment expired on October 10, 2012 and the employing establishment did not continue his employment.

On May 10, 2013 appellant filed a claim for wage-loss compensation (Form CA-7) for the period October 5, 2012 through May 10, 2013. In a February 3, 2014 decision, OWCP denied wage-loss compensation for the period October 5, 2012 through May 10, 2013. It found that the medical evidence did not support that appellant was disabled during the claimed period due to his

April 9, 2012 accepted work injury. By decision dated September 9, 2015, the Board affirmed the February 3, 2014 OWCP decision.¹

On February 21, 2022 appellant filed a notice of recurrence (Form CA-2a) alleging that on May 29, 2012 he sustained a recurrence of medical treatment and disability causally related to his April 9, 2012 employment injury. He also claimed wage loss from October 4, 2012.

Appellant provided copies of reports from medical providers for treatment received during the years 2014 through 2021, indicating that he had been involved in motor vehicle accidents during the years 2013 and 2015 and had headaches, left leg conditions, degenerative lumbar arthritis, and an emotional condition.

By development letter dated April 21, 2022, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence necessary to establish his claim, and provided a questionnaire for his completion. OWCP specifically noted that to protect appellant's privacy and for security reasons, he should not submit electronic media. It afforded appellant 30 days to submit the necessary evidence. OWCP afforded him 30 days to submit the necessary evidence.

By decision dated May 25, 2022, OWCP denied appellant's claim, finding that the medical evidence did not establish that he had a recurrence of a condition caused by his April 9, 2012 work injury. It explained that the factual and medical evidence revealed that he had several nonemployment-related motor vehicle accidents after the April 9, 2012 work injury.

On May 17, 2023 appellant requested reconsideration. He argued that he was not at fault for the three motor vehicle accidents he had been involved in during 2022 and 2023. Appellant related that he was fired from the employing establishment in October 2012 while he was still injured and under the care of a doctor. He explained that he was submitting compact discs (CDs) which contained evidence pertaining to his new injuries. On even date, OWCP received two CDs, which purportedly contained medical evidence. It labeled this evidence as "physical evidence/non-scannable." On May 17, 2023 OWCP also received an after-visit summary, dated March 17, 2023, from a nurse practitioner which noted diagnoses of major depressive disorder and insomnia.

By decision dated June 15, 2023, OWCP denied appellant's request for reconsideration of the merits of his claim, pursuant to 5 U.S.C. § 8128(a). It acknowledged that it received the CDs which appellant indicated pertained to his new injuries; however, it did not evaluate this evidence and stated that no new medical evidence was received.

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

¹ Docket No. 14-1590 (issued September 9, 2015).

The Board finds that OWCP summarily denied appellant's reconsideration request without complying with the review requirements of FECA and its implementing regulations.² Section 8124(a) of FECA provides that OWCP shall determine and make a finding of fact and make an award for or against payment of compensation.³ Its regulations at 20 C.F.R. § 10.126 provide that the decision of the Director of OWCP shall contain findings of fact and a statement of reasons.⁴ As well, OWCP's procedures provide that the reasoning behind OWCP's evaluation should be clear enough for the reader to understand the precise defect of the claim and the kind of evidence which would overcome it.⁵

In its June 15, 2023 decision, OWCP acknowledged that it received the CDs provided by appellant, but stated that no new medical evidence was received. As such, it did not discharge its responsibility to set forth findings of fact and a clear statement of reasons so that appellant could understand the basis for its decision that the CD evidence submitted in connection with the reconsideration request was insufficient for a merit review.⁶

This case must therefore be remanded to OWCP for an appropriate decision on appellant's request for reconsideration that describes the evidence submitted on reconsideration, and provides detailed reasons for accepting or rejecting the request for reconsideration pursuant to the relevant standards.⁷ The Board will therefore set aside OWCP's June 15, 2023 decision, and remand the case for findings of fact and a statement of reasons, to be followed by an appropriate decision on appellant's reconsideration request.⁸ Accordingly,

² See *C.G.*, Docket No. 20-0051 (issued June 29, 2020); *T.P.*, Docket No. 19-1533 (issued April 30, 2020); see also 20 C.F.R. § 10.607(b).

³ 5 U.S.C. § 8124(a).

⁴ 20 C.F.R. § 10.126.

⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.5 (February 2013).

⁶ See *J.D.*, Docket No. 22-0044 (issued April 22, 2024); *D.M.*, Docket 23-1154 (issued February 29, 2024).

⁷ *Id.*; *R.T.*, Docket No. 19-0604 (issued September 13, 2019).

⁸ See *Order Remanding Case, D.R.*, Docket No. 21-1229 (issued July 6, 2022); *T.P.*, *supra* note 3.

IT IS HEREBY ORDERED THAT the June 15, 2023 decision of the Office of Workers' Compensation Programs is set aside, and the case remanded to the Office for further proceedings consistent with this order of the Board.

Issued: June 25, 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