

² The Board notes that following the November 19, 2024 decision, appellant submitted additional evidence to OWCP. However, the Board’s *Rules of Procedure* provides: “The Board’s review of a case is limited to the evidence in the caserecord that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal.” 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

FACTUAL HISTORY

On February 26, 2014 appellant, then a 54-year-old city letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on February 25, 2014 he sustained injury when he was accosted, beaten, and robbed delivering mail while in the performance of duty. He indicated that he sustained swelling, bruising, and pain in his head, face, back, and arms. Appellant stopped work on February 26, 2014. OWCP accepted his claim for contusions of the neck, scalp, and face, except the eyes; lumbar sprain; concussion; left hip and thigh strain; post-traumatic stress disorder (PTSD); and depressive disorder. Appellant returned to work as a modified letter carrier on November 18, 2019.

Appellant stopped work on July 17, 2024. The case record contains a July 17, 2024 memorandum of telephone call (Form CA-110), which indicates that appellant telephoned OWCP on that date and advised that his supervisor sent him home as no work was available within his medical restrictions.

Appellant submitted an August 1, 2024 duty status report (Form CA-17) in which Dr. Cecil D. George, a Board-certified internist, recommended work restrictions. He also submitted an August 13, 2024 Form CA-17 with an illegible signature, and a portion of an unsigned August 13, 2024 visit note.

On October 3, 2024 OWCP received a notice of recurrence (Form CA-2a), signed by appellant on September 20, 2024, in which he alleged that he sustained a recurrence of disability on July 16, 2024 causally related to the February 25, 2014 employment injury. Appellant indicated that he had lived with his work-related medical condition since February 25, 2014, but after his July 2024 worsening, the employing establishment told him not to return to work. On October 3, 2024 OWCP also received a portion of an unsigned September 19, 2024 medical report.

On October 7, 2024 development letters, OWCP notified appellant of the deficiencies of his claim for a recurrence of disability, and advised him of the type of factual and medical evidence needed. It afforded him 30 days to submit the necessary evidence.

Appellant submitted cervical and lumbar spine x-rays obtained on August 21, 2024. In a September 19, 2024 report, an unidentified medical provider discussed appellant's medical treatment since suffering an injury on February 25, 2014. In a September 27, 2024 note, Dr. Phillip H. Omohundro, a Board-certified orthopedic surgeon, detailed appellant's neck and low back conditions related to the accepted February 25, 2014 employment injury. In an October 7, 2024 report, Dr. Amina Richardson, a resident psychiatrist, indicated that appellant experienced a life-threatening traumatic event on February 25, 2014 that directly led to the development of PTSD. She advised that he continued to experience significant PTSD symptoms.

On November 5, 2024 OWCP referred appellant, along with the medical record, a statement of accepted facts (SOAF), and a series of questions, for a second opinion examination and evaluation with Dr. John C. Barry, a Board-certified orthopedic surgeon. It requested that Dr. Barry provide an opinion regarding whether appellant sustained a recurrence of disability

causally related to his accepted orthopedic conditions. The examination was scheduled for December 3, 2024.

On November 5, 2024 OWCP also referred appellant, along with the medical record, a SOAF, and a series of questions, for a second opinion examination and evaluation with Dr. Christiane Tellefsen, a Board-certified psychiatrist and neurologist. It requested that Dr. Tellefsen provide an opinion regarding whether appellant sustained a recurrence of disability causally related to his accepted psychiatric conditions. The examination was scheduled for December 6, 2024.

By decision dated November 19, 2024, OWCP denied appellant's claim, finding that he had not met his burden of proof to establish a recurrence of disability on or after July 16, 2024 causally related to his accepted February 25, 2014 employment injury.

LEGAL PRECEDENT

A recurrence of disability means an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition, which resulted from a previous compensable injury or illness and without an intervening injury or new exposure in the work environment.³ This term also means an inability to work because a light-duty assignment made specifically to accommodate an employee's physical limitations, and which is necessary because of a work-related injury or illness, is withdrawn or altered so that the assignment exceeds the employee's physical limitations. A recurrence does not occur when such withdrawal occurs for reasons of misconduct, nonperformance of job duties, or a reduction-in-force.⁴

OWCP's procedures provide that a recurrence of disability includes a work stoppage caused by a spontaneous material change in the medical condition demonstrated by objective findings. That change must result from a previous injury or occupational illness rather than an intervening injury or new exposure to factors causing the original illness. It does not include a condition that results from a new injury, even if it involves the same part of the body previously injured.⁵

An employee who claims a recurrence of disability due to an accepted employment-related injury has the burden of proof to establish by the weight of the substantial, reliable, and probative evidence that the disability for which he or she claims compensation is causally related to the accepted injury. This burden of proof requires that a claimant furnish medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that, for each period of disability claimed, the disabling condition is causally related to

³ 20 C.F.R. § 10.5(x); *see J.D.*, Docket No. 18-1533 (issued February 27, 2019).

⁴ *Id.*

⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.2b (June 2013); *L.B.*, Docket No. 18-0533 (issued August 27, 2018).

the employment injury, and supports that conclusion with medical reasoning.⁶ Where no such rationale is present, the medical evidence is of diminished probative value.⁷

When an employee who is disabled from the job he or she held when injured on account of employment-related residuals returns to a limited-duty position or the medical evidence of record establishes that he or she can perform the limited-duty position, the employee has the burden of proof to establish by the weight of the reliable, probative, and substantial evidence a recurrence of total disability and to show that he or she cannot perform such limited-duty work.⁸ As part of this burden, the employee must show a change in the nature and extent of the injury-related condition, or a change in the nature and extent of the limited-duty job requirements.⁹

ANALYSIS

The Board finds that this case is not in posture for decision.

On November 5, 2024, OWCP referred appellant to Drs. Barry and Tellefsen for second opinion examinations. It requested that Dr. Barry provide an opinion regarding whether appellant sustained a recurrence of disability causally related to his accepted orthopedic conditions, and that Dr. Tellefsen provide an opinion regarding whether he sustained a recurrence of disability causally related to his accepted psychiatric conditions. While OWCP undertook development of appellant's recurrence claim and referred appellant for second opinion evaluations, it issued its November 19, 2024 decision denying appellant's claim for a work-related July 16, 2024 recurrence of disability before it had received reports from Dr. Barry and Dr. Tellefsen.

It is well established that proceedings under FECA are not adversarial in nature, nor is OWCP a disinterested arbiter. While the claimant has the burden of proof to establish entitlement to compensation, OWCP shares the responsibility in the development of the evidence to see that justice is done.¹⁰ Once it undertakes development of the record, it must do a complete job in procuring medical evidence that will resolve the relevant issues in the case.¹¹

As OWCP failed to complete the development it undertook when it referred appellant to Dr. Barry and Dr. Tellefsen, the case must be remanded for completion of development of the

⁶ *J.D.*, Docket No. 18-0616 (issued January 11, 2019); *see C.C.*, Docket No. 18-0719 (issued November 9, 2018).

⁷ *H.T.*, Docket No. 17-0209 (issued February 8, 2018).

⁸ *See D.W.*, Docket No. 19-1584 (issued July 9, 2020); *S.D.*, Docket No. 19-0955 (issued February 3, 2020); *Terry R. Hedman*, 38 ECAB 222 (1986).

⁹ *C.B.*, Docket No. 19-0464 (issued May 22, 2020); *Terry R. Hedman, id.*; *R.N.*, Docket No. 19-1685 (issued February 26, 2020).

¹⁰ *See M.S.*, Docket No. 23-1125 (issued June 10, 2024); *E.B.*, Docket No. 22-1384 (issued January 24, 2024); *J.R.*, Docket No. 19-1321 (issued February 7, 2020); *S.S.*, Docket No. 18-0397 (issued January 15, 2019).

¹¹ *Id.*; *see also R.M.*, Docket No. 16-0147 (issued June 17, 2016).

medical evidence.¹² Following this and other such further development as deemed necessary, it shall issue a *de novo* decision.

CONCLUSION

The Board finds that this case is not in posture for decision.

ORDER

IT IS HEREBY ORDERED THAT the November 19, 2024 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: January 24, 2025
Washington, DC

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

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

¹² See *E.P.*, Docket No. 25-0038 (issued December 20, 2024).