United States Department of Labor Employees' Compensation Appeals Board

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L.V., Appellant

and

U.S. POSTAL SERVICE, POST OFFICE, San Francisco, CA, Employer Docket No. 11-113 Issued: August 12, 2011

Case Submitted on the Record

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

ORDER REMANDING CASE

Before: RICHARD J. DASCHBACH, Chief Judge ALEC J. KOROMILAS, Judge COLLEEN DUFFY KIKO, Judge

On October 8, 2010 appellant filed an application for review of an April 13, 2010 decision of the Office of Workers' Compensation Programs (OWCP). By that decision, OWCP's hearing representative affirmed a November 4, 2009 decision denying appellant's claim for neck, upper back, shoulder and head injuries occurring on July 11, 2009. In denying the claim, the hearing representative found that appellant made false assertions about her claimed condition.

The Board has duly considered the matter and finds that the case is not in posture for a decision. The Board notes that, in the April 13, 2010 decision, OWCP's hearing representative relied on evidence from another claim, file number xxxxx756, in denying that an injury occurred in the present claim, file number xxxxx526. In particular, the hearing representative referenced appellant's CA-2 in file number xxxxx756 and compared this to her hearing testimony in the present claim to find that her assertions that she did not have a prior neck condition were "not supported by her own claim of injury under claim xxxxx756." Based largely on her finding that appellant gave false assertions about the history of her neck condition, the hearing representative affirmed the denial of the claim. As assembled, the case record now before the Board does not contain the case file for claim number xxxxx756. OWCP procedures provide that cases should be combined where correct adjudication depends on cross-referencing between files or when a new injury is reported for an employee who previously filed an injury

for a similar condition or the same part of the body.¹ The Board finds that, for a full and fair adjudication, OWCP claims pertaining to appellant's neck conditions should be combined pursuant to OWCP procedures.

The case will be remanded to OWCP to combine case file numbers xxxxx526 and xxxxx756. Following this and such other development as deemed necessary, OWCP shall issue an appropriate merit decision on appellant's claim.

IT IS HEREBY ORDERED THAT the April 13, 2010 Office of Workers' Compensation Programs' decision be set aside and the case remanded for further proceedings consistent with this order.

Issued: August 12, 2011 Washington, DC

> Richard J. Daschbach, Chief Judge Employees' Compensation Appeals Board

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

> Colleen Duffy Kiko, Judge Employees' Compensation Appeals Board

¹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000).