United States Department of Labor Employees' Compensation Appeals Board

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N.A., Appellant)
and) Docket No. 11-1836) Issued: June 12, 2012
U.S. POSTAL SERVICE, POST OFFICE, Pittsburgh, PA, Employer) issued. 3dife 12, 2012)) _)
Appearances: Thomas R. Uliase, Esq., for the appellant Office of Solicitor, for the Director	Case Submitted on the Record

ORDER REMANDING CASE

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

On August 4, 2011 appellant, through her attorney, filed an application for review of a May 9, 2011 decision of the Office of Workers' Compensation Programs (OWCP). By that decision, OWCP denied appellant's occupational disease claim for bilateral shoulder and brachial plexus conditions. OWCP assigned File No. xxxxxx446 to this claim. The evidence of record also shows that appellant has a previously filed occupational disease claim for carpal tunnel for which she is receiving benefits under File No. xxxxxx320. This earlier claim, to which OWCP assigned File No. xxxxxx320, is not presently before the Board.

Having duly reviewed the matter, the Board finds that the case is not in posture for a decision. The Board notes that in the present claim, OWCP referred to and relied upon medical reports from several providers under File No. xxxxxx320. These reports included a September 9, 2008 second opinion examination from Dr. Steven Valentino, a Board-certified orthopedic surgeon. Additionally, OWCP relied upon a February 11, 2009 report from Dr. William Kirkpatrick, a Board-certified orthopedic surgeon and an impartial medical examiner in the previous claim. OWCP's May 9, 2011 decision advised appellant that new evidence from her physician, Dr. Scott Fried, a Board-certified neurologist and hand surgeon, was insufficient in

¹ A copy of Dr. Kirkpatrick's report is in the record before the Board. Dr. Valentino's report is not in the record before the Board.

part as he failed to address the reports of Drs. Valentino and Kirkpatrick. It further found that reports from Dr. Fried did not overcome the weight of other physicians from the prior claim who found no upper extremity diagnosis other than the previously accepted bilateral carpal tunnel syndrome. Cases should be combined when correct adjudication of the issues depends on frequent cross-reference between files. OWCP procedures provide for the doubling of a claim when correct adjudication of the issues depends on frequent cross-reference between files.² As assembled, the case record now before the Board does not contain the complete case file for File No. xxxxxx320. Therefore, for a full and fair adjudication, appellant's claims should be doubled. On remand OWCP shall combine File Nos. xxxxxx320 and xxxxxx446 and, following this and such other development as deemed necessary, issue an appropriate decision on her claim for compensation.

IT IS HEREBY ORDERED THAT the May 9, 2011 Office of Workers' Compensation Programs' decision be set aside and the case remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: June 12, 2012 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

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