

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

F.H., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Ponchatoula, LA, Employer**

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**Docket No. 11-292
Issued: August 12, 2011**

Appearances:

*Alan J. Shapiro, 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 November 16, 2010 appellant filed an application for review of the Office of Workers' Compensation Programs' (OWCP) September 29, 2010 merit decision denying her occupational disease claim. The appeal was docketed as 11-292. The Board finds that this case is not in posture for a decision.

On December 8, 2007 appellant filed a claim under File No. xxxxxx180 for fibromyalgia, cervical spondylosis, carpal tunnel syndrome, restless leg syndrome and post-traumatic syndrome, which she allegedly developed as a result of a July 10, 2007 work-related "slip and fall" incident.¹ By decision dated September 25, 2008, OWCP's hearing representative affirmed a February 20, 2008 decision which accepted appellant's claim for a wrist contusion, but denied the claim for all other conditions, including fibromyalgia. In a decision dated September 10, 2009, the Board affirmed the hearing representative's September 25, 2008 decision.²

¹ Claims filed by appellant include a June 1, 1997 claim that was accepted for cervical sprain (File No. xxxxxx452); claims for right carpal tunnel syndrome, right hand tenosynovitis, and cervical sprains were accepted under File Nos. xxxxxx755, xxxxxx190, xxxxxx775, xxxxxx836 and xxxxxx300, and combined into File No. xxxxxx755; a claim for left carpal tunnel syndrome was accepted under File No. xxxxxx500. OWCP denied appellant's September 30, 2002 and June 22, 2003 occupational disease claims for stress.

² Docket No. 09-255 (issued September 10, 2009).

The present appeal involves appellant's August 13, 2008 occupational disease claim in File No. xxxxxx305, in which she alleged that she sustained an aggravation of her fibromyalgia condition as a result of the above-referenced July 10, 2007 work-related "slip and fall" incident. In a March 29, 2010 decision, OWCP denied the claim on the grounds that the evidence failed to establish a causal relationship between appellant's diagnosed fibromyalgia and her federal duties. By decision dated September 29, 2010, OWCP's hearing representative affirmed the March 29, 2010 decision.

As the condition of fibromyalgia is at issue in both cases, medical evidence contained in File No. xxxxxx180 will necessarily bear directly on appellant's claim for compensation in the instant case. Further, it appears that appellant's August 13, 2008 claim may be duplicative of the December 8, 2007 claim. Because it is essential for the Board to review the medical evidence contained in File No. xxxxxx180 in order to render a full and fair adjudication of the present appeal, this case will be remanded for OWCP to consolidate File Nos. xxxxxx180 and xxxxxx305, and issue an appropriate merit decision on her claim.

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' September 29, 2010 decision be set aside and the case remanded for further development consistent with this order of the Board.

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