United States Department of Labor
Employees' Compensation Appeals Board

C.H., Appellant)	
)	
and)	**Docket No. 11-1947**
)	**Issued: November 25, 2011**
DEPARTMENT OF HOMELAND SECURITY,)	
CUSTOMS & BORDER PROTECTION,)	
Edmonton Alberta, Canada, Employer)	
)	

Appearances: *Case Submitted on the Record*
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

Appellant filed an application for review of the Office of Workers' Compensation Programs' (OWCP) July 29, 2011 merit decision denying his occupational disease claim. The appeal was docketed as No. 11-1947. After considering the evidence of record, the Board finds this case is not in posture for a decision.

The present appeal involves appellant's May 18, 2011 occupational disease claim (No. xxxxxx270), in which he alleged that he developed occupational asthma and allergic rhinitis due to employment-related exposure to jet and diesel fumes, dust and toxins. The record indicates that on December 21, 2008 appellant filed a similar claim (No. xxxxxx995), which was accepted for acute episodic allergic bilateral conjunctivitis/rhinitis. The record in the instant case, however, does not contain any evidence relating to the development of the prior claim.

In support of his claim, appellant submitted medical evidence from his treating physician, Dr. Jordanka Angelova, a pulmonologist, who opined that his diagnosed allergic rhinitis was causally related to exposure to fumes at work. He referred OWCP to a second opinion report from Dr. Benjamin Chiam, a pulmonologist, which was submitted pursuant to his prior claim in File No. xxxxxx995.[1]   Noting that he was unable to obtain a copy of Dr. Chiam's report,

---

[1] Appellant states that Dr. Chiam's May 6, 2011 second opinion report addresses the same occupational exposure described in the instant case and concludes that his asthmatic condition resulted from the occupational exposure.

appellant contended that his opinion would establish that he developed asthma as a result of his exposure to toxins in the workplace.

In its July 29, 2011 decision denying appellant's claim in this case, OWCP found that the evidence failed to establish a causal relationship between the claimed exposure and the claimed conditions. OWCP declined his request to review Dr. Chiam's report contained in File No. xxxxxx995, stating that each case file is separate and must be supported individually.

As the allegations contained in File No. xxxxxx995 are substantially the same as those contained in File No. xxxxxx270, the medical evidence contained in File No. xxxxxx995 will necessarily bear directly on appellant's claim for compensation in File No. xxxxxx270. Because it is essential for the Board to review the medical evidence contained in File No. xxxxxx995 in order to render a full and fair adjudication of the present appeal, this case will be remanded for OWCP to consolidate case File Nos. xxxxxx995 and xxxxxx270. Reconstruction of the record will be followed by a *de novo* decision on the merits of the claim, in order to protect appellant's appeal rights.

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' July 29, 2011 decision be set aside and the case remanded for further development consistent with this order.[2]

Issued: November 25, 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

---

[2] The Board notes that appellant requested oral argument before the Board. Pursuant to 20 C.F.R. § 501.5(a), oral argument may be held in the discretion of the Board. 20 C.F.R. § 501.5(a). In light of the Board's ruling, oral argument is not appropriate in this case. Therefore, appellant's request for oral argument is denied.