

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

L.Z., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Phoenix, AZ, Employer**

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**Docket No. 11-1415
Issued: December 12, 2011**

Appearances:
Appellant, pro se
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 May 27, 2011 appellant filed a timely appeal from a January 7, 2011 Office of Workers' Compensation Programs' (OWCP) merit decision which denied her claim for an employment-related injury. The Board docketed the appeal as No. 11-1415.

The Board has duly considered the matter and finds that the case is not in posture for a decision.

On March 3, 2010 appellant, then a 54-year-old rural carrier associate, filed an occupational disease claim (Form CA-2) alleging that she developed stiffness in her right backside and leg which she attributed to factors of her federal employment on February 13, 2010. She alleged that her injury was a recurrence "from accident in May of 2007." The employing establishment controverted the claim and indicated that appellant had a claim open for medical benefits under File No. xxxxxx854. By letter dated April 15, 2010, OWCP requested clarification as to whether the claim was for a recurrence or a new injury. Subsequently, appellant submitted an April 27, 2010 narrative statement which stated that her injury "was a reoccurring incident from my accident on May 21, 2007." She added, among other things, that her back "never stopped" bothering her following the May 21, 2007 employment injury. By decision dated June 3, 2010, OWCP denied the claim on the basis that the evidence submitted did not establish fact of injury. On June 9, 2010 appellant requested an oral hearing

before an OWCP hearing representative. During an October 27, 2010 telephonic hearing, the hearing representative noted that an original claim was accepted by OWCP for cervical strain, lumbar strain, and some injuries to the shoulders, forearms, and a left knee laceration. By decision dated January 7, 2011, OWCP's hearing representative denied the claim for a new occupational injury, finding that it was not a consequential injury as it was due to an independent nonwork-related cause, *i.e.*, appellant had sat in a concert for three and one-half to four hours in February 2010 when she complained of back pain. He noted that there was an accepted claim for a May 21, 2007 employment injury under File No. xxxxxx954 which included a February 15, 2010 report by Dr. James S. Hawkins, a Board-certified orthopedic surgeon, which OWCP had electronically transferred into the present case record.

Decisions of OWCP shall contain findings of fact and a statement of reasons.¹ The Board finds that the basis on which OWCP denied appellant's claim is unclear and thus the Board is unable to render an informed decision in this case. The record contains evidence of appellant's attempt to file a claim for a recurrence of the May 21, 2007 employment injury which was accepted by OWCP under File No. xxxxxx954.² However, OWCP continued to adjudicate the claim as a new occupational disease injury. In its final decision dated January 7, 2011, OWCP's hearing representative found that the claim was not a consequential injury, thereby acknowledging that there was an accepted claim, but further denied the claim for a new occupational disease and reviewed and considered medical evidence contained in File No. xxxxxx954 when denying the claim.

The case will be remanded for OWCP to combine the current case record with File No. xxxxxx954 and properly adjudicate the issue of whether appellant has established a recurrence of disability commencing February 13, 2010 causally related to the May 21, 2007 employment injury. Following this and such other development as deemed necessary, OWCP shall issue a *de novo* decision.

¹ See 20 C.F.R. § 10.126.

² Although appellant did not file a Form CA-2a for the alleged recurrence claim, this Board has held that a claim for compensation need not be filed on any particular form. A claim may be made by filing any paper containing words which may reasonably be construed or accepted as a claim. See *Dale M. Newbigging*, 44 ECAB 551 (1993); see also Federal (FECA) Procedure Manual, Part 2 -- Claims, *Time*, Chapter 2.801.3(a) (March 1993).

IT IS HEREBY ORDERED THAT the January 7, 2011 Office of Workers' Compensation Programs' decision is set aside and the case remanded for further development consistent with this order of the Board.

Issued: December 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