

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

H.S., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
North Metro, GA, Employer**

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**Docket No. 10-2257
Issued: June 28, 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 September 4, 2010 appellant filed an application for review of an August 27, 2010 Office of Workers' Compensation Programs' decision, claim number xxxxxx657, which affirmed the denial of his occupational disease claim.¹ The appeal was docketed as No. 10-2257.

The August 27, 2010 decision referenced other back injury claims filed by appellant; claim number xxxxxx361,² for a traumatic injury which occurred on January 26, 1988; and claim number xxxxxx401,³ for an occupational disease filed on November 25, 1997. The August 27, 2010 decision also referenced the Board's May 18, 2010 order that remanded the case to the Office to combine case file numbers xxxxxx657, xxxxxx361 and xxxxxx401.⁴ In its August 27, 2010 decision, the Office stated that all the files were combined.

¹ On February 14, 2007 appellant filed an occupational disease claim alleging that his work duties caused his back condition. He noted a date of injury of November 13, 1997.

² The Office accepted the claim for low back strain, subluxation of the L4 vertebrae and aggravation of lumbar disc disease.

³ The claim was denied by the Office on August 3, 1998.

⁴ Docket No. 09-2010 (issued May 18, 2010).

The Board has duly considered the matter and notes that, in its May 18, 2010 order, the Board directed that, for a full and fair adjudication, the Office must combine claim numbers xxxxxx657, xxxxxx361 and xxxxxx401. However, the record before the Board does not contain the complete record for claim number xxxxxx401.⁵ In the August 27, 2010 decision, the Office noted the history of claim number xxxxxx401 and noted the January 7, 1998 and August 3, 1998 decisions in claim number xxxxxx401.⁶ It noted that claim number xxxxxx657 was an exact duplicate of claim number xxxxxx401. The Office noted reviewing all of appellant's prior claims of xxxxxx657, xxxxxx361 and xxxxxx401 in order to obtain a complete history of appellant's claims for a work-related back injury.

The Board has duly considered the matter and notes that the case is not in posture for a decision. The claims before the Board, numbers xxxxxx657, xxxxxx361 and xxxxxx401 involve appellant's claims for back injuries. In the August 27, 2010 decision, the Office noted reviewing evidence and findings made in claim number xxxxxx401 in reaching its decision. The evidence indicates that file number xxxxxx401 has evidence germane to the Office's decision in claim number xxxxxx657. However, the record before the Board does not contain the complete case record for claim number xxxxxx401. Pursuant to Office procedures, the Office has determined that cases should be combined where correct adjudication depends on cross-referencing between files. In the instant appeal, it appears that, for a full and fair adjudication, the Office claims pertaining to appellant's lumbar conditions should be combined pursuant to Office procedures.⁷ This will allow the Office to consider all relevant claim files in developing appellant's claim. Moreover, to consider appellant's appeal at this stage would involve a piecemeal adjudication of the issues in this case and raise the possibility of inconsistent results. It is the Board's policy to avoid such an outcome.⁸

The case will be remanded to the Office to combine the complete record for claim number xxxxxx401 with records for claim numbers xxxxxx657 and xxxxxx361. Following this and such other development as deemed necessary, the Office shall issue an appropriate merit decision on appellant's claim.

⁵ The only documents in claim number xxxxxx401 are a January 5, 2009 letter from appellant to the Office requesting a copy of his case file, a February 6, 2009 Office letter to appellant regarding his request and a February 13, 2009 telephone call memorandum regarding appellant's request for a copy of the file.

⁶ On January 7, 1998 the Office denied appellant's claim for an occupational disease and on August 3, 1998, the Office denied modification of this decision.

⁷ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000).

⁸ See *William T. McCracken*, 33 ECAB 1197 (1982).

IT IS HEREBY ORDERED THAT the August 27, 2010 decision of the Office of Workers' Compensation Programs be set aside and the matter remanded to the Office for further proceedings consistent with this order of the Board.

Issued: June 28, 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