

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

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**P.L., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Detroit, MI, Employer**  
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**Docket No. 12-706  
Issued: August 15, 2012**

*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  
COLLEEN DUFFY KIKO, Judge  
PATRICIA HOWARD FITZGERALD, Judge

Appellant filed an application for review of the Office of Workers' Compensation Programs' (OWCP) August 24, 2011 merit decision denying his occupational disease claim. The appeal was docketed as number 12-706. The Board finds that this case is not in posture for a decision.

Appellant filed a traumatic injury claim (File No. xxxxxx282) alleging that he sustained injuries to his back, neck and face at work on May 31, 2006 when a water fountain fell off the wall and struck him on the head. His claim was accepted for cervical and lumbosacral strains and contusions to the face, scalp and neck.

The present appeal involves appellant's May 25, 2009 occupational disease claim (File No. xxxxxx946), in which he alleged aggravation of cervical and lumbar injuries sustained on May 31, 2006 due to employment activities during June and July 2006. Appellant identified the date of injury as May 31, 2006.

In OWCP's August 24, 2011 decision denying appellant's claim in the instant case, the claims examiner indicated that he had extensively reviewed the evidence of record in File No. xxxxxx282 to ensure that all pertinent evidence was considered and noted that he had copied relevant documents. Due to the overlapping nature of the claims, the medical evidence contained in File No. xxxxxx282 will necessarily bear directly on appellant's claim for compensation in

File No. xxxxxx946. Without reviewing the case record in File No. xxxxxx282, the Board is unable to determine whether OWCP properly considered all relevant evidence in rendering its final decision.

Because it is essential for the Board to review the medical evidence contained in File No. xxxxxx282 in order to render a full and fair adjudication of the present appeal, this case will be remanded for OWCP to consolidate case File No. xxxxxx282 with File No. xxxxxx946. 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' August 24, 2011 decision be set aside and the case remanded for further development consistent with this order.

Issued: August 15, 2012  
Washington, DC

Richard J. Daschbach, Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board