

2010, OWCP denied appellant's claim on the grounds that it was untimely filed. Appellant timely requested an oral hearing by an OWCP hearing representative on September 21, 2010. By decision dated December 14, 2011, OWCP's hearing representative found appellant had timely filed his claim, but found the evidence insufficient to establish causal relationship. He noted that he had reviewed the evidence contained in file number xxxxxx829 and found it to be duplicative.

The record forwarded to the Board also includes evidence that appellant filed an occupational disease claim on April 5, 2011 alleging that his degenerative disc disease was due to pulling and pushing heavy equipment. OWCP denied this claim in a June 22, 2011 merit decision under file number xxxxxx829. The current record contains a copy of the April 5, 2011 claim form and the June 22, 2011 decision denying the claim

As both claims referenced above are for degenerative disc disease aggravated by employment duties, it is unclear whether the record before the Board, OWCP file number xxxxxx996, contains all the evidence that would be relevant to whether appellant's degenerative disc disease had been caused or aggravated by his employment duties under file number xxxxxx829. The Board is also unable to determine whether the evidence contained in file number xxxxxx829 is duplicative, as found by the hearing representative, because the record is not before the Board.

Hence, the Board finds that this case is not in posture for a decision as the record before the Board is incomplete and would not permit an informed adjudication of the case by the Board. The case must therefore be remanded to OWCP to obtain OWCP file number xxxxxx829 to be combined with the current case, OWCP file number xxxxxx996, and for further reconstruction and development as deemed necessary, to be followed by an appropriate decision.

IT IS HEREBY ORDERED THAT the December 14, 2011 decision of the Office of Workers' Compensation Programs is set aside and the case remanded for further proceedings consistent with this order of the Board.

Issued: December 21, 2012
Washington, DC

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

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board