

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

D.R., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Pittsburgh, PA, Employer**

)
)
)
)
)
)
)
)
)

**Docket No. 12-696
Issued: July 25, 2012**

Appearances:
Douglas Sughrue, 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

On February 8, 2012 appellant, through her attorney, filed an application for review of a November 23, 2011 decision of the Office of Workers' Compensation Programs (OWCP), claim number xxxxxx960, which denied modification of an August 30, 2010 decision that denied appellant's claim for an occupational disease.¹ The appeal was docketed as number 12-696.

In the November 23, 2011 decision, OWCP noted that appellant had submitted certain evidence including a recurrence claim form from another claim file number xxxxxx597. It advised that "on the recurrence claim form of November 4, 1999 for case number xxxxxx597, the claimant indicated that ... she started having pains in her right knee, right hip and lower back." OWCP's claims examiner noted reviewing correspondence and decisions in the other claim file stating that "Per review of case number xxxxxx597 (now doubled with case number xxxxxx030), the claim for recurrence received on November 4, 1999 was accepted for the right knee condition only. By letter dated January 21, 2000 OWCP advised the claimant that she had

¹ On May 28, 2010 appellant alleged that she developed low back pain and nerve damage to her leg following surgery on her right knee under a separate claim, number xxxxxx030, which was accepted for fracture of the right tibia and fibula and torn lateral meniscus of the right knee.

not met her burden of proof to show that her low back and feet conditions were related to the accepted work injury.”²

The Board has duly considered the matter and notes that the case is not in posture for a decision. The claim before the Board, case number xxxxxx960, involves appellant’s claim for an occupational disease involving the low back, specifically alleging that, after her second knee surgery accepted under claim number xxxxxx030, she developed low back pain. In the November 23, 2011 decision, OWCP noted reviewing evidence and findings made in claim number xxxxxx597 in reaching its decision. The evidence also indicates that file number xxxxxx597 may have evidence germane to claim number xxxxxx960.

Pursuant to its procedures, OWCP 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, OWCP claims with evidence germane to appellant’s low back conditions should be combined pursuant to OWCP procedures.³ This will allow OWCP 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.⁴

The case will be remanded to OWCP to combine case files numbers xxxxxx960, xxxxxx597 and xxxxxx030. Following this and such other development as deemed necessary, OWCP shall issue an appropriate merit decision on appellant’s claim.

² The complete medical records and factual information pertaining to these claims are not in the record before the Board.

³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000).

⁴ See *William T. McCracken*, 33 ECAB 1197 (1982).

IT IS HEREBY ORDERED THAT the November 23, 2011 decision be set aside and the matter remanded to the Office of Workers' Compensation Programs for further proceedings consistent with this order.

Issued: July 25, 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