

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

G.J., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
New York, NY, Employer**

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**Docket Nos. 11-1743 & 11-1663
Issued: March 12, 2012**

Appearances:

*James D. Muirhead, Esq., for the appellant
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 July 13, 2011 appellant, through her attorney, filed an application for review of the Office of Workers' Compensation Programs' (OWCP) April 21, 2011 merit decision in File No. xxxxxx601 denying her traumatic injury claim. The appeal was docketed as number 11-1663. On July 27, 2011 appellant, through her attorney, filed an application for review of OWCP's March 31, 2011 merit decision in File No. xxxxxx321 denying her claim for a recurrence of disability and request to expand her claim. That appeal was docketed as number 11-1743. The Board finds that these appeals are not in posture for a decision.

In her March 12, 2008 traumatic injury claim in File No. xxxxxx321, appellant alleged that she sustained injuries to her head and neck when she was struck in the head by an elevator door. Her claim was accepted for neck sprain and headache. Appellant returned to work on July 11, 2009.

Appellant filed a notice of recurrence of total disability as of July 16, 2009, alleging that her migraine headaches and cervical condition were aggravated by lifting mail. OWCP converted her recurrence claim to a new traumatic injury claim under File No. xxxxxx601. It denied appellant's claim by decisions dated September 17, 2009, March 29, 2010 and March 21, 2011. Appellant disagreed with OWCP's March 21, 2011 decision and appealed to the Board in Docket No. 11-1663.

On August 5, 2009 appellant filed a notice of recurrence in File No. xxxxxx321 alleging total disability as of August 1, 2009 due to migraine headaches related to her accepted injury. She asked that her claim be expanded to include a right shoulder injury. In decisions dated October 13, 2009, March 19, 2010 and March 31, 2011, OWCP denied appellant's recurrence claim and request to expand her claim. Appellant disagreed with OWCP's March 31, 2011 decision and appealed to the Board in Docket No. 11-1743.

Both of appellant's claims involve the same claimed head and cervical conditions, which allegedly resulted from the same work factors. Therefore, the medical evidence contained in File No. xxxxxx321 will necessarily bear directly on her claim for compensation in File No. xxxxxx601 and vice versa. The record in File No. xxxxxx601, however, does not contain any evidence relating to the development of the March 12, 2008 traumatic injury claim in File No. xxxxxx321. Because it is essential for the Board to review the medical evidence contained in both files in order to render a full and fair adjudication of the issues in these appeals in Docket Nos. 11-1743 and 11-1663, this case will be remanded for OWCP to consolidate case files xxxxxx321 and xxxxxx601. 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 March 31, 2011 decision in File No. xxxxxx321 and the April 21, 2011 decision in File No. xxxxxx601 be set aside and the cases are remanded for further development consistent with this order.

Issued: March 12, 2012
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