

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

W.R., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Omaha, NE, Employer**

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**Docket No. 11-1821; 11-1830
Issued: May 23, 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
ALEC J. KOROMILAS, Judge
COLLEEN DUFFY KIKO, Judge

On August 2, 2011 appellant, through his attorney, filed an application for review of the Office of Workers' Compensation Programs' (OWCP) March 10 and July 1, 2011 merit decisions in claim No. xxxxxx665 denying his left shoulder occupational disease claim. The appeal was docketed as No. 11-1821. On August 2, 2011 appellant also filed an application for review of OWCP's June 21, 2011 merit decision in File No. xxxxxx860 denying his right shoulder occupational disease claim. That appeal was docketed as No. 11-1830. The Board finds that these appeals are not in posture for a decision.

On September 1, 2010 appellant, then a 56-year-old mail handler, filed an occupational disease claim (Form CA-2) alleging that on May 26, 2005 he sustained a condition of the right rotator cuff from repetitively pulling sleeves off a tray. OWCP assigned claim No. xxxxxx860. Appellant submitted medical records dated May 26, 2005 to October 12, 2010 in support of his claim. By decisions dated December 15, 2010 and June 21, 2011, OWCP denied his claim for failing to establish causal relationship.

On January 12, 2011 appellant filed another Form CA-2 alleging that he developed a left shoulder condition from repetitively moving his arms and shoulder when pulling sleeves off trays, throwing mail on the belt, loading elevators and pushing and pulling containers. OWCP assigned claim No. xxxxxx665. Appellant submitted medical reports dated December 20, 2010

to March 30, 2011. In a March 30, 2011 medical report, Dr. Charles E. Rosipal, a Board-certified orthopedic surgeon, provided an extensive history of appellant's work duties with the postal service, diagnosed left shoulder full-thickness symptomatic rotator cuff tear and provided an explanation on causal relationship between appellant's injury and his work-related activities.

By decisions dated March 10 and July 1, 2011 in claim No. xxxxxx665, OWCP denied appellant's claim on the grounds that the medical evidence of record failed to establish the causal relationship between the left shoulder rotator cuff tear and the accepted work-related employment factors. It noted that the medical evidence did not establish causal relationship between the left shoulder full-thickness tear and the actual physical requirements of a mail handler verses the adverse effects the left shoulder developed from compensating for the nonwork-related right shoulder injury.

In its July 1, 2011 decision for claim No. xxxxxx665, OWCP referenced appellant's September 1, 2010 occupational exposure claim for a right shoulder rotator cuff tear and reviewed the medical evidence in that claim, No. xxxxxx860. It relied on the medical evidence in claim No. xxxxxx860 as a basis for its denial in appellant's left shoulder claim, No. xxxxxx665. As the medical evidence from claim No. xxxxxx860 was reviewed by the senior claims examiner in OWCP's July 1, 2011 decision, the medical evidence contained in claim No. xxxxxx860 will necessarily bear directly on appellant's claim for compensation in claim No. xxxxxx665, and vice versa.

Both of appellant's claims involve shoulder conditions which allegedly resulted from the same work factors. 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 File Nos. 11-1821 and 11-1830, the case will be remanded for OWCP to consolidate case files xxxxxx860 and xxxxxx665.

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' July 1 and March 10, 2011 decisions in claim No. xxxxxx665 and the June 21, 2011 decision in claim No. xxxxxx860 be set aside and the case is remanded for further development consistent with this order.

Issued: May 23, 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