

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

G.A., Appellant)	
)	
and)	Docket No. 11-1933
)	Issued: May 9, 2012
DEPARTMENT OF DEFENSE, DEFENSE)	
LOGISTICS AGENCY, Fort Belvoir, VA,)	
Employer)	
)	

Appearances:
Appellant, pro se
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 25, 2011 appellant filed an application for review of a March 9, 2011 decision of the Office of Workers' Compensation Programs (OWCP), claim number xxxxxx590, denying modification of the denial of her emotional condition claim and denying modification of the rescission of claim number xxxxxx105 as duplicative of claim number xxxxxx590. The appeal was docketed as number 11-1933.

Claim number xxxxxx590 was created when appellant filed an emotional condition claim on June 19, 1993. In a May 13, 1994 decision, OWCP denied this claim on the grounds there was insufficient medical evidence to establish that she sustained an emotional condition due to the accepted factor.¹ Claim number xxxxxx105 was created when appellant filed another claim on July 20, 2005 for an emotional condition. By decision dated January 8, 2009, OWCP determined under its own motion that claim number xxxxxx105 was an exact duplicate of claim

¹ This decision is not actually in the record before the Board but it is referenced in a prior appeal to the Board. See *infra* note 3.

number xxxxx590. Thus, it rescinded its original decision of January 11, 2006 and all subsequent decisions issued in xxxxxx105.² OWCP subsequently combined case numbers xxxxxx105 and xxxxxx590, with case number xxxxxx590 as the master file. By decision dated December 13, 2010, the Board set aside a July 31, 2009 OWCP decision which found appellant's reconsideration request was not timely filed. The Board found that her May 19, 2009 reconsideration request was timely filed within one year of OWCP's January 8, 2009 merit decision, and remanded the case for OWCP to issue an appropriate decision.³ Following the Board's decision, OWCP in its March 9, 2011 merit decision indicated that it considered all relevant evidence under each claim action, regardless of the claim number under which it was filed.

The Board has duly considered the matter and notes that the Director has not forwarded the complete contents of appellant's case record for review by the Board. In denying modification of OWCP's May 13, 1994 and January 8, 2009 decisions, OWCP in the March 9, 2011 decision discussed evidence which is not of record. This includes medical evidence under claim number xxxxxx590 from Dr. McCaughan, Dr. Christopher Connor and factual evidence and statements under claim number xxxxxx105. While OWCP had combined case numbers xxxxxx590 with case number xxxxxx105, the record before the Board does not contain the early evidence under case number xxxxxx590 so a full and fair adjudication may be rendered.

Because the Board is unable to render a fully informed decision, the case is not in posture for a decision and the March 9, 2011 OWCP decision will be set aside and the case remanded. On remand, OWCP will undertake appropriate development to reconstruct the case record. Following this and such further development as it may deem necessary, it shall issue an appropriate merit decision to preserve appellant's appeal rights.

² On November 16, 2006 the Board affirmed OWCP's January 11, 2006 decision that appellant's claim was not timely filed under 5 U.S.C. § 8122. Docket No. 06-1083 (issued November 16, 2006).

³ Docket No. 10-426 (issued December 13, 2010).

IT IS HEREBY ORDERED THAT the March 9, 2011 decision be set aside and the matter remanded to the Office of Workers' Compensation Programs for further proceedings consistent with this order.

Issued: May 9, 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