



Appellant subsequently filed another claim for recurrence of disability as of May 23, 2006 in File No. xxxxxx989. The recurrence claim was denied by decisions dated November 9, 2006, May 14 and August 22, 2007. In a decision dated January 14, 2011, the Board set aside OWCP's September 18, 2009 decision denying appellant's reconsideration request as untimely and failing to establish clear evidence of error and remanded the case for further consideration.<sup>2</sup>

In its August 5, 2011 decision, in File No. xxxxxx989, OWCP denied modification of its prior merit decisions. The decision reflects that the claims examiner reviewed the evidence in the instant case, File No. xxxxxx989, and in File No. xxxxxx955, both of which concern allegations relating to the same body part. The record in the instant case, however, does not contain any evidence relating to the development of the prior claim. The Board finds that the medical evidence contained in File No. xxxxxx955 will necessarily bear directly on appellant's claim in File No. xxxxxx989. Because it is essential for the Board to review the medical evidence contained in File No. xxxxxx955 in order to render a full and fair adjudication of the present appeal, this case will be remanded for OWCP to consolidate case file numbers xxxxxx955 and xxxxxx989. 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' August 5, 2011 decision be set aside and the case remanded for further development consistent with this order.

Issued: October 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

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<sup>2</sup> Docket No. 10-1120 (issued January 14, 2011).