

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

J.B., Appellant

and

**DEPARTMENT OF THE ARMY, U.S. ARMY
MATERIAL COMMAND, Texarkana, TX,
Employer**

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**Docket No. 12-853
Issued: October 25, 2012**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:

COLLEEN DUFFY KIKO, Judge
ALEC J. KOROMILAS, Alternate Judge
JAMES A. HAYNES, Alternate Judge

On March 7, 2012 appellant filed a timely appeal from October 31, 2011 and February 23, 2012 merit decisions of the Office of Workers' Compensation Programs (OWCP) which denied his occupational disease claim. The Board assigned Docket No. 12-853.

On August 9, 2011 appellant, then a 59-year-old heavy mobile equipment mechanic helper, filed an occupational disease claim alleging that he suffered from hearing loss as a result of working around a noisy environment at work. He stated that he first became aware of his hearing loss and realized that it resulted from his employment on July 11, 2011.

By letter dated August 15, 2011, the employing establishment controverted appellant's claim as duplicative because he had an approved hearing loss claim under OWCP case number xxxxxx315.

On October 31, 2011 OWCP denied appellant's claim finding that he had not established that the alleged employment events occurred as described and he had not submitted medical evidence to establish that he sustained hearing loss as a result of his federal employment. It concluded that he had not established fact of injury.

On November 8, 2011 appellant filed a request for reconsideration.

In an August 4, 2011 memorandum, Patricia E. Chisum, an employing establishment health technician in audiology, noted that appellant was evaluated and identified as having a significant change in his hearing. She submitted audiograms dated February 23, 2009, and July 11 and August 4, 2011.

By decision dated February 23, 2012, OWCP denied modification of appellant's claim. It stated that while the claim had initially been denied because appellant had not established fact of injury, with medical evidence, the case record continued to lack sufficient factual evidence to support the mechanism of injury.

OWCP procedures require that cases should be combined where proper adjudication depends on cross-referencing evidence between files.¹ In the instant appeal, it appears that, for a full and fair adjudication, appellant's hearing loss claims should be combined pursuant to OWCP procedures. The August 4, 2011 memorandum from the employing establishment suggests that appellant sustained a significant worsening of his hearing. Given that he had a prior accepted hearing loss claim, the Board is unable to determine whether any change in his hearing constitutes an increased loss related to his initial claim, or a new injury. Accordingly, the case is remanded to OWCP for reconstruction and proper assemblage of the case record, followed by issuance of an appropriate decision.

IT IS HEREBY ORDERED THAT the February 23, 2012 and October 31, 2011 decisions of the Office of Workers' Compensation Programs are set aside and the case is remanded for further action consistent with this order of the Board.

Issued: October 25, 2012
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board

¹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000).