

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

J.F., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Marlton, NJ, Employer**

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**Docket No. 13-684
Issued: June 25, 2013**

Appearances:
Thomas R. Uliase, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:

RICHARD J. DASCHBACH, Chief Judge
COLLEEN DUFFY KIKO, Judge
PATRICIA HOWARD FITZGERALD, Judge

On February 1, 2013 appellant, through his attorney, filed an application for review of a September 26, 2012 decision of the Office of Workers' Compensation Programs (OWCP), claim number xxxxxx584, which affirmed a April 30, 2012 decision granting appellant a schedule for five percent left upper extremity impairment.¹ The Board docketed the appeal as Docket No. 13-684.

In the September 26, 2012 decision, an OWCP hearing representative noted that appellant had prior claims for his upper extremities including a claim for right ulnar neuropathy, with a date of injury of November 3, 2001, case file number xxxxxx465. The hearing representative noted that in case file number xxxxxx465, OWCP granted appellant a schedule award for 14 percent impairment of the right upper extremity. In addition, appellant had a claim which was accepted for left medial epicondylitis, with a date of injury of February 7, 2005, case file number

¹ On January 2, 2008 appellant, then a 55-year-old mail carrier, filed an occupational disease claim alleging that he developed bilateral hand conditions due to performing repetitive work tasks. OWCP accepted the claim for bilateral carpal tunnel syndrome and bilateral hand osteoarthritis. On April 30, 2012 OWCP granted appellant a schedule award for 5 percent impairment of the left upper extremity and 6 percent impairment for the right upper extremity; however, it noted that since appellant already received a schedule award for 14 percent impairment for the right upper extremity under file number xxxxxx465 he was not entitled to an additional right upper extremity award.

xxxxxx258. The hearing representative noted reviewing the other claim files and medical evidence, specifically stating “on April 30, 2012 [OWCP] notified the claimant that he was awarded a schedule award for five percent permanent impairment of the left upper extremity. [OWCP] stated that there was no additional award for the right upper extremity as the current impairment, six percent, was less than the amount previously awarded” in case file number xxxxxx465 which was accepted for right ulnar neuropathy.² In the September 26, 2012 decision the hearing representative further noted that “the evidence of record does not support any preexisting left elbow condition and, moreover, [OWCP] determined in a separate decision that there was no ratable impairment referable to the left medial epicondylitis” and referenced “[f]ile n[umber] xxxxxx258, [OWCP] decision dated May 4, 2010, affirmed by the Branch and Hearings and Review November 10, 2010.”³ He further indicated that “[OWCP] did not accept left *de Quervain’s* tenosynovitis in connection with any of the claimant’s accepted injuries.”

The Board has duly considered the matter and concludes that the case is not in posture for a decision. The claim before the Board, case file number xxxxxx584, involves appellant’s claim for a schedule award for his upper extremities for the accepted bilateral carpal tunnel syndrome and hand osteoarthritis. In this claim appellant was granted 5 percent impairment for the left upper extremity but denied an additional 6 percent impairment for the right upper extremity because he already received a schedule award for 14 percent for the right upper extremity under claim case file number xxxxxx465, accepted for right ulnar neuropathy. In the September 26, 2012 decision, the hearing representative noted reviewing evidence and findings made in case file numbers xxxxxx465 and xxxxxx258. The evidence also indicates that case file numbers xxxxxx465 and xxxxxx258 may have evidence germane to the schedule award determination for the bilateral upper extremities in case file number xxxxxx584.

Pursuant to its procedures, OWCP has determined that cases should be combined where correct adjudication depends on cross-referencing between files. In the instant appeal, it appears that, for a full and fair adjudication, OWCP claims pertaining to appellant’s bilateral upper extremity conditions should be combined pursuant to OWCP procedures.⁴ This will allow OWCP to consider all relevant claim files in developing appellant’s claim. Moreover, to consider appellant’s appeal at this stage would involve a piecemeal adjudication of the issues in this case and raise the possibility of inconsistent results. It is the Board’s policy to avoid such an outcome.⁵

The case will be remanded to OWCP to combine case file numbers xxxxxx584, xxxxxx465 and xxxxxx258. Following this and such other development as deemed necessary, OWCP shall issue a *de novo* decision on appellant’s claim.

² The medical records, factual information and OWCP decisions in case file number xxxxxx465, are not in the current record before the Board.

³ These records are not before the Board.

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000).

⁵ See *William T. McCracken*, 33 ECAB 1197 (1982).

IT IS HEREBY ORDERED THAT the September 26, 2012 decision be set aside and the matter remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: June 25, 2013
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