

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

---

P.G., Appellant

and

**DEPARTMENT OF HOMELAND SECURITY,  
FEDERAL EMERGENCY MANAGEMENT  
AGENCY, Alexandria, VA, Employer**

---

)  
)  
)  
)  
)

**Docket No. 14-430  
Issued: August 1, 2014**

*Appearances:*

*Lonnie L. Boylan, for the appellant  
Office of Solicitor, for the Director*

*Case Submitted on the Record*

**ORDER REMANDING CASE**

Before:

PATRICIA HOWARD FITZGERALD, Acting Chief Judge  
ALEC J. KOROMILAS, Alternate Judge  
MICHAEL E. GROOM, Alternate Judge

On December 18, 2013 appellant, through her representative, filed a timely appeal from a July 17, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP) denying her claim for an employment-related injury. The Board docketed the appeal as No. 14-430.

The Board has duly considered the matter and finds that the case is not in posture for decision.

On August 26, 2012 appellant, then a 59-year-old travel manger/specialist, filed an occupational disease claim (Form CA-2) alleging that she sustained an aggravation of a preexisting lumbar condition due to factors of her federal employment. In a narrative statement, she indicated that her original right ankle injury occurred on March 1, 2009. The record contains an August 30, 2012 memorandum indicating that appellant previously filed a claim for a traumatic injury sustained on March 1, 2009 under OWCP File No. xxxxxx361. By decision dated October 15, 2012, OWCP denied appellant's occupational disease claim on the basis that the medical evidence failed to establish a causal relationship between her diagnosed conditions and the implicated employment factors. On May 13, 2013 appellant, through her attorney, requested reconsideration and submitted an April 25, 2013 report from Dr. D. Todd Rose, a

Board-certified orthopedic surgeon, who indicated that appellant had degenerative disc disease at L4-5 and L5-S1, which was progressive in nature, and had a previous injury that resulted in a fusion of her right ankle. Dr. Rose opined that appellant's right ankle injury and the repetitive twisting, bending, reaching and walking required to complete her federal duties significantly increased the accelerated progression of her lumbar condition. Appellant also submitted a March 22, 2011 report by Dr. Albert W. Marr, a Board-certified orthopedic surgeon, who opined that appellant had a 45 percent permanent impairment of the right lower extremity. Additionally, on August 22, 2011 an OWCP medical adviser concurred with Dr. Marr's impairment rating and indicated that appellant had an accepted case under File No. xxxxxx361 for a number of conditions, including right ankle fracture and aggravation of lumbar degenerative disc disease. By decision dated July 17, 2013, OWCP denied modification of its October 15, 2012 decision.

Decisions of OWCP shall contain findings of fact and a statement of reasons.<sup>1</sup> The record contains evidence to suggest that appellant's case may have already been accepted for an aggravation of lumbar degenerative disease under OWCP File No. xxxxxx361. The absence of evidence from this claim precludes the Board from properly reviewing OWCP's decision. OWCP procedures provide that cases should be doubled when a new injury case is reported for an employee who previously filed an injury claim for a similar condition or the same part of the body.<sup>2</sup> The Board finds that OWCP failed to properly combine the cases. As the case record submitted to the Board would not permit an informed adjudication of the case, the Board finds that the case is not in posture for decision.

Consequently, the case will be remanded for OWCP to combine the current case record with File No. xxxxxx361 and properly adjudicate the issue of whether appellant met her burden of proof to establish that she sustained an aggravation of a preexisting lumbar condition in the performance of duty causally related to factors of her federal employment. Following this and such other development as deemed necessary, OWCP shall issue a *de novo* decision.

---

<sup>1</sup> See 20 C.F.R. § 10.126.

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

**IT IS HEREBY ORDERED THAT** the July 17, 2013 decision of the Office of Workers' Compensation Programs is set aside and the case remanded for further development consistent with this order.

Issued: August 1, 2014  
Washington, DC

Patricia Howard Fitzgerald, Acting Chief Judge  
Employees' Compensation Appeals Board

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

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board