

March 26, 1985 employment injury and affirmed OWCP decisions dated March 7 and November 7, 2005.²

The record in file number xxxxxx154 contains decisions issued by OWCP and the Board, adjudicated by OWCP under file number xxxxxx530. Under file number xxxxxx530, appellant stopped work on January 24, 2005 and filed a claim indicating that her right upper extremity was affected by cold. The record indicates that this claim has not been accepted. In file number xxxxxx154, on October 3, 2007, the Board issued an order remanding case in file number xxxxxx530. The Board instructed OWCP to combine files xxxxxx530, xxxxxx154 and xxxxxx860.³ In a letter dated November 28, 2007, OWCP informed appellant that these files had been combined with file number xxxxxx530 case identified as the master file. The case file before the Board, for master file xxxxxx154, does not include file number xxxxxx530.

Subsequent to the October 3, 2007 remand order, the Board issued two decisions on file number xxxxxx530. In decisions dated September 16, 2009 and August 16, 2011, the Board remanded file number xxxxxx530 to OWCP. In the September 16, 2009 decision, the Board found that, as OWCP did not provide appellant's physician with a statement of accepted facts, the case was not in posture for decision. The Board remanded the case to OWCP to prepare a corrected statement of accepted facts and submit it to the treating physician or a second opinion examiner for an opinion regarding whether appellant's current condition was causally related to her employment.⁴ In the August 16, 2011 decision, the Board again found the case not in posture for decision because the opinion of Dr. Kevin F. Hanley, a Board-certified orthopedic surgeon and OWCP referral physician, was not based on a correct statement of accepted facts. The Board set aside OWCP's June 3, 2010 decision and remanded the case to OWCP for further development in accordance with the Board's September 16, 2009 decision.⁵

The Board has duly considered the matter and finds this case is not in posture for decision as OWCP did not comply with the Board's October 3, 2007 remand order in file number xxxxxx530 case. By that order, on remand OWCP was to combine files xxxxxx530, xxxxxx154 and xxxxxx860. There is nothing in this record (xxxxxx154 master file) to indicate that this was done. As file number xxxxxx530 was remanded to OWCP on August 16, 2011 for further development of the medical record,⁶ medical reports in file number xxxxxx530 could have bearing on the merit issue in the case on appeal before the Board, *i.e.*, whether OWCP properly terminated medical benefits. The record before the Board does not demonstrate that evidence under file number xxxxxx530 has been considered by OWCP.

Hence, the Board finds that this case is not in posture for a decision as the record before the Board does not indicate that OWCP properly combined and considered evidence from file

² Docket No. 06-1087 (issued May 1, 2007).

³ Docket No. 07-1422 (issued October 3, 2007).

⁴ Docket No. 08-2147 (issued September 16, 2009).

⁵ Docket No. 10-2280 (issued August 16, 2011).

⁶ *Id.*

number xxxxxx530 as contemplated by the Board's prior decisions relative to file number xxxxxx530. It is important for OWCP to fully consolidate these claims to ensure that all evidence germane to the termination of benefits is properly considered. 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.⁷ The case must therefore be remanded to OWCP to properly consider and combine OWCP file number xxxxxx530 with the OWCP master file number xxxxxx154, and its subfiles. Following this reconstruction of the record as well as any additional development deemed necessary, OWCP shall issue an appropriate *de novo* decision.

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated June 26, 2013 is set aside and the case remanded for further proceedings consistent with this order of the Board.

Issued: May 1, 2014
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

⁷ See *William T. McCracken*, 33 ECAB 1197 (1982).