

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

R.U., Appellant

and

**DEPARTMENT OF HOMELAND SECURITY,
CUSTOMS & BORDER PROTECTION,
El Paso, TX, Employer**

)
)
)
)
)
)
)
)
)
)
)
)

**Docket No. 15-1349
Issued: December 22, 2015**

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

Case Submitted on the Record

ORDER REMANDING CASE

Before:

CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
ALEC J. KOROMILAS, Alternate Judge

On June 2, 2015 appellant filed a timely appeal from a January 23, 2015 decision of the Office of Workers' Compensation Programs (OWCP) denying his claim for a recurrence of disability due to his accepted left shoulder condition. The appeal was docketed as 15-1349.

The Board has duly considered the matter and concludes that this case is not in posture for decision. The record forwarded to the Board includes evidence that appellant has two claims for left shoulder injuries, one that occurred on August 28, 1998 due to participating in defense tactics training at work (OWCP file number xxxxxx354), and one that occurred on February 11, 2001 due to a fall at work (OWCP file number xxxxxx127).¹ Appellant filed a claim (Form CA-2a) on May 29, 2014 alleging that he sustained a recurrence of disability on December 16, 2013 due to his August 28, 1998 and February 11, 2001 work injuries. On December 17, 2013 he underwent surgical repair of the rotator cuff of his left shoulder. In support of his recurrence of disability claim, appellant submitted a December 27, 2013 report in which Dr. Thomas Butler, an attending Board-certified internist, provided an opinion that

¹ File number xxxxxx354 is the claim that is presently before the Board. File number xxxxxx127 is not fully accessible. OWCP accepted that on August 28, 1998 appellant sustained a strain of the rotator cuff of his left shoulder. On his claim form for the February 11, 2001 injury, appellant indicated that he extended his left arm to brace his fall and felt a "pop" in his left shoulder upon landing. OWCP administratively accepted his February 11, 2001 injury without formally identifying the specific accepted left shoulder condition.

appellant's surgery was necessitated by the 1998 and 2001 work injuries. By decision dated January 23, 2015, OWCP issued a decision, under file number xxxxxx354, denying his claim because he did not submit sufficient medical evidence to establish that he sustained a work-related recurrence of disability due to the August 28, 1998 work injury.

As the two claims referenced above both relate to appellant's left shoulder condition and he is claiming that he sustained a recurrence of disability due to his August 28, 1998 and February 11, 2001 work injuries, it is unclear whether the record before the Board, OWCP file number xxxxxx354, contains all the evidence that would be relevant to his recurrence of disability claim. Its procedures provide that cases should be combined where correct adjudication depends on cross-referencing between them.² Hence, the Board finds that the case is not in posture for decision as the record before the Board is incomplete and would not permit an informed adjudication of the case by the Board. The case must therefore be remanded to OWCP to obtain its file number xxxxxx127, to be combined with OWCP file number xxxxxx354. After carrying out this case record reconstruction, OWCP shall issue an appropriate merit decision regarding appellant's claim that he sustained a recurrence of disability on December 16, 2013 due to his August 28, 1998 and February 11, 2001 work injuries.

IT IS HEREBY ORDERED THAT the January 23, 2015 decision of the Office of Workers' Compensation Programs is set aside and the case remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: December 22, 2015
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

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

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