

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

C.C., Appellant)

and)

TENNESSEE VALLEY AUTHORITY,)
WORKERS' COMPENSATION)
DEPARTMENT, Chattanooga, TN, Employer)

**Docket No. 14-1576
Issued: March 9, 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
COLLEEN DUFFY KIKO, Judge
PATRICIA HOWARD FITZGERALD, Judge

On July 3, 2014 appellant filed an application for review of a May 15, 2014 decision of the Office of Workers' Compensation Programs (OWCP), claim file number xxxxxx692, which affirmed an October 29, 2013 decision denying an additional schedule award.¹ The appeal was docketed as No. 14-1576.

In the May 15, 2014 decision, an OWCP hearing representative noted that on August 20, 2001 appellant received a schedule award for two percent impairment of the right leg in the present claim, file number xxxxxx692. She also noted that on October 25, 2004 he had also received a schedule award for 23 percent impairment of the right lower extremity in claim file number xxxxxx332.² She opined that the medical evidence did not support an increased impairment greater than 23 percent impairment of the right lower extremity which was previously granted by OWCP in claim file number xxxxxx332.

¹ On February 15, 1997 appellant, a 53-year-old electrician, injured his right thigh and right knee. OWCP accepted the claim for a right thigh contusion, right knee medial meniscus tear, and authorized arthroscopic surgery.

² Similarly, the hearing representative noted that on November 12, 2003 appellant received a schedule award for 30 percent impairment of the left lower extremity in claim file number xxxxxx916. This claim is not before the Board on the present appeal.

OWCP noted in decisions dated October 29, 2013 and May 15, 2014, that appellant would be eligible for an additional schedule award if the medical evidence supported impairment greater than the previously paid impairment of 23 percent in claim file number xxxxxx332. However, the record does not indicate for what conditions or regions of the right lower extremity he was granted a schedule award for 23 percent impairment in claim file number xxxxxx332 and if that schedule award was in addition to the two percent impairment granted for the right leg determined by OWCP in claim file number xxxxxx692.

The Board has duly considered the matter and notes that the case is not in posture for a decision. The claim before the Board, case file number xxxxxx692, pertains to a claim where appellant was denied an additional schedule award for the right lower extremity. OWCP noted that he was previously granted a schedule award for 23 percent impairment for the right lower extremity under claim file number xxxxxx332 and was not entitled to an additional award. In the October 29, 2013 and May 15, 2014 decisions, OWCP noted reviewing evidence and findings made in case file number xxxxxx332. The evidence thus indicates that claim file number xxxxxx332 has evidence germane to the schedule award determination in claim file number xxxxxx692. However, as noted, claim file number xxxxxx332 is not presently before the Board. Pursuant to its procedures, OWCP has determined that cases should be combined where correct adjudication depends on cross-referencing between files.³ In the instant appeal, it appears that, for a full and fair adjudication, OWCP claims pertaining to appellant's right lower extremity impairment should be combined pursuant to OWCP procedures. This will allow OWCP to consider all relevant claim files in developing appellant's claim for a schedule award and serve to avoid piecemeal adjudication⁴ that could raise the possibility of inconsistent results if more than one schedule award claim for the same schedule members is being developed in separate files.

The case will be remanded to OWCP to combine case file numbers xxxxxx692 and xxxxxx332 pursuant to OWCP procedures. Following this and such other development as deemed necessary, OWCP shall issue an appropriate merit decision on appellant's schedule award claim.

³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance & Management*, Chapter 2.400.8(c) (February 2000).

⁴ See *William T. McCracken*, 33 ECAB 1197 (1982).

IT IS HEREBY ORDERED THAT the May 15, 2014 decision of the Office of Workers' Compensation Programs be set aside and the matter remanded to OWCP for further proceedings consistent with this order.

Issued: March 9, 2015
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board