

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

V.R., Appellant

and

**DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE, Houston, TX,
Employer**

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**Docket No. 16-1167
Issued: December 22, 2016**

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
COLLEEN DUFFY KIKO, Judge

On May 16, 2016 appellant filed an application for review of merit decisions of the Office of Workers' Compensation Programs (OWCP) dated December 4, 2015 and March 25, 2016 in which OWCP denied her emotional condition claim. The appeal was docketed as 16-1167 and adjudicated by OWCP under File No. xxxxxx163.

The Board has duly considered the matter and concludes that this case is not in posture for decision. On June 24, 2015 appellant, a bankruptcy specialist, filed a claim for recurrence (Form CA-2a) under File No. xxxxxx575, accepted for major depression, recurrent episode, moderate, and generalized anxiety disorder. On the claim form she indicated that she was able to cope until January 11, 2015 when an acting manager who was detailed to her group relentlessly subjected her to unwarranted disciplinary actions and threats of termination. Appellant maintained that this intensified in February 2015 when a new territory manager was appointed. She did not stop work at that time and began extended medical leave on July 15, 2015. Appellant submitted additional evidence consisting of numerous emails and pleadings before the Equal Employment Opportunity Commission relating to events that occurred beginning in 2012. The employing establishment challenged the claim.

By letter dated October 5, 2015 OWCP informed appellant that, based on her description of the circumstances that prompted her filing the above-recurrence claim, she was actually claiming a new occupational disease. It advised that a new case had been created, which would be adjudicated under File No. xxxxxx163.¹ The files were doubled with File No. xxxxxx575, becoming the master file. On December 4, 2015 OWCP denied the claim finding that she had not identified any compensable factors of employment. Appellant thereafter requested reconsideration and on March 25, 2016 OWCP denied modification of its December 4, 2015 decision.

The Board notes that, when OWCP converted appellant's recurrence claim to a new occupational disease claim for an emotional condition, it did not ask her to submit a statement describing in detail the employment conditions or incidents she believed contributed to her illness. The Board has long held that OWCP should inform a claimant of the need to submit a detailed statement describing the employment factors he or she attributed as the cause of the claimed condition.² Moreover, OWCP procedures provide that OWCP is responsible for requesting evidence.³ The procedures continue that the claims examiner should contact the claimant in writing to obtain evidence and should specifically request the information needed, tailored to the specifics of the individual case. The procedures acknowledge that a claimant's statement is essential to understanding the basis of an emotional condition claim.⁴

Proceedings under FECA are not adversarial in nature. OWCP shares in the responsibility to develop the evidence and has an obligation to see that justice is done.⁵ Hence, the Board finds that this case is not in posture for a 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 have appellant submit a statement in which she describes in detail the employment conditions or incidents she believed contributed to her emotional condition claimed in 2015. After this and further development deemed necessary, OWCP shall issue a *de novo* decision.

¹ The claim adjudicated under File No. xxxxxx575 was submitted in 2008. Appellant was off work for a period of time, and returned to work in October 2010. At some point she began work at a different location.

² *Norman M. Perras*, 49 ECAB 191 (1997).

³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.4.c(2) (June 2011).

⁴ *Id.* at Chapter 2.800.5.c (June 2011)

⁵ *P.K.*, Docket No. 08-2551 (issued June 2, 2009).

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated March 25, 2016 and December 4, 2015 are set aside and the case remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: December 22, 2016
Washington, DC

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

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board