

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

D.M., Appellant)	
)	
and)	Docket No. 15-0591
)	Issued: September 14, 2016
DEPARTMENT OF VETERANS AFFAIRS,)	
MARYLAND HEALTH CARE SYSTEM,)	
Baltimore, MD, Employer)	

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 January 23, 2015 appellant filed a timely appeal from an August 13, 2014 decision of the Office of Workers' Compensation Programs (OWCP) denying his request for an increased scheduled award for hearing loss. His appeal is also timely filed from the December 12, 2014 nonmerit decision denying reconsideration. This appeal was docketed as No. 15-0591. After considering the evidence of record, the Board finds that this case is not in posture for decision.

On April 25, 2003 appellant, then a 54-year-old food service worker, filed an occupational disease claim alleging that he sustained a loss of hearing due to exposure to noise from a dishwasher.¹ OWCP assigned this case File No. xxxxxx530. On October 15, 2003 it accepted appellant's claim for bilateral hearing loss and nondigital hearing aids were approved. On August 17, 2004 appellant filed a claim for a schedule award. On September 14, 2004 OWCP issued a schedule award for a 45 percent binaural hearing loss. On September 16, 2010 appellant filed another claim for a schedule award. By decision dated May 25, 2011, OWCP denied appellant's claim for an additional schedule award as there was no significant change in appellant's hearing since the previous award. On January 9, 2013 appellant filed another claim

¹ The Board notes that on June 22, 1998 appellant had previously received an award from the Department of Veterans Affairs for a 10 percent disabling loss due to bilateral hearing loss and a 10 percent disabling loss for tinnitus, for a combined loss of 20 percent.

for an increased schedule award. By decision dated August 13, 2014, OWCP denied appellant's claim. On December 12, 2014 OWCP denied reconsideration of the August 13, 2014 decision.

The Board notes that on May 9, 2013 appellant filed a new claim for a schedule award due to additional noise exposure. The record indicates that OWCP assigned this claim File No. xxxxxx779. Although there is no decision in the current record with regard to this case, there are indications in the record that a decision was issued in File No. xxxxxx779 on February 27, 2014 awarding appellant a schedule award for an additional six percent binaural hearing loss.

On March 4, 2014 the employing establishment requested that OWCP combine the present case, File No. xxxxxx530, with File No. xxxxxx779. There is no indication in the record that the cases were ever combined.

The Board finds that it is essential to review the evidence contained in both File Nos. xxxxxx779 and xxxxxx530 in order to render a full and fair adjudication of the present appeal. Due to the overlapping nature of the claims, the evidence contained in those case records will necessarily bear directly on appellant's claim for compensation. Without reviewing the case records in both claims, the Board is unable to determine whether OWCP properly considered all relevant evidence in rendering its decisions. Accordingly, this case will be remanded for OWCP to consolidate case files xxxxxx530 and xxxxxx779. Reconstruction of the record will be followed by a *de novo* decision on the merits of the claim in order to protect appellant's appeal rights.

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated August 13 and December 12, 2014 are set aside and the case is remanded for further action consistent with this order.

Issued: September 14, 2016
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