

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

R.S., Appellant

and

**DEPARTMENT OF THE AIR FORCE, TINKER
AIR FORCE BASE, Midwest City, OK, Employer**

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**Docket No. 17-0713
Issued: July 18, 2017**

Appearances:

*Chris Kannady, Esq., for the appellant¹
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 February 8, 2017 appellant, through counsel, filed a timely appeal of a November 3, 2016 merit decision of the Office of Workers Compensation Programs (OWCP) denying appellant's claim for compensation. The Board docketed the appeal as No. 17-0713.

On October 8, 2014 appellant filed an occupational disease or illness claim (Form CA-2) alleging that she sustained bilateral carpal tunnel syndrome, as well as ulnar nerve restrictions in her arms, as a result of her federal employment. She noted that she had a prior claim with respect to right carpal tunnel syndrome.

OWCP denied the October 8, 2014 claim by decisions dated February 11 and December 21, 2015. On October 25, 2016 appellant, through counsel, requested reconsideration. Counsel indicated that a report from Dr. John Ellis dated July 27, 2016 was enclosed.

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; see also 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

By decision dated November 3, 2016, OWCP reviewed the merits and denied modification. It asserted that a medical report from Dr. Ellis had not been received.

On appeal counsel argues that the report from Dr. Ellis was enclosed with the October 25, 2016 reconsideration request. The November 3, 2016 OWCP decision fails to acknowledge that appellant had a prior claim with respect to carpal tunnel syndrome. The current occupational disease claim also involves carpal tunnel syndrome. OWCP's procedures provide that cases should be combined when necessary for correct adjudication of the issues.² Moreover, OWCP fails to acknowledge the possibility that medical evidence submitted with the October 25, 2016 reconsideration request was improperly filed with the prior claim.

The Board, having duly considered the matter, concludes that the case is not in posture for decision. OWCP should administratively combine the claims involving carpal tunnel syndrome. The record before the Board is incomplete and would not permit an informed adjudication of the case by the Board. Once the case records are combined, OWCP may properly review all of the relevant evidence with respect the claim for compensation in this case. After further reconstruction and assemblage deemed necessary, OWCP should issue an appropriate merit decision.

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated November 3, 2016 is set aside and the case remanded for further action consistent with this order of the Board.

Issued: July 18, 2017
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

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