

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

A.D., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Stone Mountain, GA, Employer**

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**Docket No. 17-0145
Issued: May 3, 2017**

Appearances:

Alan J. Shapiro, 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

JURISDICTION

On October 28, 2016 appellant, through counsel, filed a timely appeal from an August 31, 2016 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Board docketed the appeal as 17-0145.

The Board, having duly considered the matter, concludes that the case is not in posture for decision. On June 16, 2015 appellant filed an occupational disease claim (Form CA-2) under File No. xxxxxx828 alleging that she sustained bilateral carpal tunnel syndrome as a result of her federal employment. OWCP denied this claim by decision dated July 30, 2015, finding insufficient medical evidence to establish causal relationship. It noted reviewing evidence in the current case record as well as evidence in File No. xxxxxx825, which had been accepted for a left thumb sprain and ganglion cyst. On October 23, 2015 appellant requested reconsideration.

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.

In a November 6, 2015 decision, OWCP denied her reconsideration request. It noted that appellant had a prior claim for a bilateral wrist injury under File No. xxxxxx299 which was accepted for bilateral carpal tunnel syndrome. OWCP found that her request for reconsideration was insufficient to warrant reopening her claim for further merit review under 5 U.S.C. § 8128(a). On May 23, 2016 counsel requested reconsideration. By decision dated August 31, 2016, OWCP denied modification of the July 30, 2015 decision, again finding that causal relationship had not been established.

The Board notes that OWCP procedures provide for the doubling of a claim when a new injury is reported for an employee who previously filed an injury claim for a similar condition for the same part of the body.² As it has accepted appellant's prior claims which include a claim for bilateral carpal tunnel syndrome under File No. xxxxxx299 and a left thumb sprain and ganglion cyst under File No. xxxxxx825, it should have combined the case files in accordance with its procedures.³

As OWCP failed to properly associate the evidence from all of appellant's case files, the Board is unable to properly address the relevant issue in this case. The case is thus not in posture for decision as the record before the Board is incomplete and would not permit an informed adjudication of the case. On remand, OWCP should combine the present case record, File No. xxxxxx828, with File Nos. xxxxxx825 and xxxxxx299. After combining these case records, it should consider all the evidence and, following any necessary further development, issue an appropriate merit decision on appellant's occupational disease claim.

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

³ *Id.*; see also *G.B.*, Docket No. 15-0756 (issued September 16, 2015).

IT IS HEREBY ORDERED THAT the August 31, 2016 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this order of the Board.

Issued: May 3, 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