

May 30, 2013 injury, his back and neck continued to worsen, causing severe pain that limited his job performance. Appellant indicated that he had neck and spine damage, as well as numbness in his extremities with swelling, loss of balance, loss of range of motion, and intense neck and back pain. He stopped work on December 11, 2003. OWCP developed the recurrence claim as a new occupational disease claim under File No. xxxxxx795.³ On October 21, 2015 it informed appellant of the type of evidence needed to establish the claim. Appellant, through counsel, requested that OWCP review the medical records in File No. xxxxxx474. He submitted a September 9, 2015 report from Dr. Arnold B. Wilson, an attending Board-certified orthopedic surgeon, who noted seeing appellant in follow up for his neck, back, and right shoulder conditions. In a January 8, 2016 decision, issued under File No. xxxxxx795, OWCP denied the new occupational disease claim because the evidence provided was insufficient to establish that the claimed work factors occurred as alleged. Counsel timely requested a hearing, which was held on September 7, 2016. During the hearing, appellant testified regarding his employment duties and the May 30, 2013 employment injury.

In a November 2, 2016 decision, issued under File No. xxxxxx795, an OWCP hearing representative modified the January 8, 2016 decision to reflect that the factual component of appellant's claim had been established, but denied the claim, finding the medical evidence of record insufficient to establish the claim. The decision referenced evidence found in File No. xxxxxx474. Counsel subsequently requested reconsideration. In a merit decision dated February 8, 2017, OWCP denied modification of the prior decisions.

The Board notes that there are no medical reports found in OWCP File No. xxxxxx795 dated between June 2013, when appellant returned to work following the May 30, 2013 employment injury, and December 13, 2013, when he stopped work and filed the recurrence claim, now adjudicated as an occupational disease claim. The medical evidence in File No. xxxxxx795 begins with a cervical spine magnetic resonance imaging (MRI) scan dated March 8, 2013 which demonstrated disc herniations at C3-4, C4-5, C5-6, and a disc bulge at C2-3. The next report is a treatment note dated December 19, 2013 in which Dr. John M. Olsewski, a Board-certified orthopedic surgeon, indicated that he was seeing appellant for the first time. Dr. Olsewski described the May 30, 2013 work injury, listed findings, noted cervical spine MRI scan findings, and diagnosed cervical radiculopathy.

The Board has duly considered the matter and concludes that this case is not in posture for decision. OWCP procedures provide that cases should be combined when correct adjudication of the issues depends on frequent cross-reference between files.⁴ Appellant has a claim, adjudicated by OWCP under File No. xxxxxx474, accepted for right shoulder sprain, caused by a May 30, 2013 employment injury. The medical evidence of record in File No. xxxxxx795, begins on December 19, 2013 and does not contain prior medical evidence contained in File No. xxxxxx474. As these two case files have not been administratively combined, the Board is unable to determine whether all pertinent evidence was reviewed prior to the denial of the instant occupational disease claim, and is unable to properly adjudicate this appeal. As the record before the Board is incomplete and would not permit an informed

³ File No. xxxxxx795 is the claim presently before the Board.

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance & Management*, Chapter 2.400.8(c) (February 2000).

adjudication of the case by the Board, the case must be remanded to OWCP to administratively combine the files and for further reconstruction and development deemed necessary, to be followed by an appropriate *de novo* decision.⁵

IT IS HEREBY ORDERED THAT the February 8, 2017 and November 2, 2016 decisions of the Office of Workers' Compensation Programs are set aside and the case remanded for further proceedings consistent with this order of the Board.⁶

Issued: February 2, 2018
Washington, DC

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

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

⁵ See *W.B.*, Docket No. 15-1751 (issued March 8, 2016).

⁶ Colleen Duffy Kiko, Judge, participated in the original decision, but was no longer a member of the Board effective December 11, 2017.