

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

X.J., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Atlanta, GA, Employer**

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**Docket No. 17-1094
Issued: February 5, 2018**

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 April 20, 2017 appellant filed a timely appeal from a January 23, 2017 merit decision of the Office of Workers' Compensation Programs (OWCP). The Board docketed the appeal as No. 17-1094.

This case has previously been before the Board. In a December 10, 2015 decision, the Board affirmed on May 12 and June 5, 2015 OWCP decisions terminating appellant's wage-loss compensation as he had no further disability due to his June 21, 2013 traumatic injury, accepted for a right quadriceps tendon rupture under File No. xxxxxx192.¹ The Board also set aside an August 14, 2015 decision, finding that OWCP had improperly denied further merit review of the June 5, 2015 merit decision under 5 U.S.C. § 8128(a).

On remand, in a March 3, 2016 decision, OWCP again denied modification of its June 5, 2015 decision. It discussed appellant's allegation that physical therapy for his accepted injury caused a lumbar condition. OWCP noted that he had filed an October 2, 2014 occupational disease claim, assigned File No. xxxxxx878, for a left leg and hip condition as a consequence of his right leg condition. It also noted that appellant had filed a 2015 occupational disease claim alleging that employment factors caused a low back condition, assigned case File No. xxxxxx105.

¹ Docket No. 15-1776 (issued December 10, 2015).

WCP found that the medical evidence submitted did not explain whether his lumbar condition resulted from the accepted work injury or employment factors. Following reconsideration, on October 13, 2016 it denied modification of its March 3, 2016 decision, again noting his claims in file numbers xxxxxx878 and xxxxxx105. Appellant sought reconsideration. In a January 23, 2017 decision, OWCP denied modification of the October 13, 2016 decision. It discussed appellant's physician's request to expand the claim to include lumbar and left leg conditions. OWCP noted appellant's occupational disease claims for a lumbar spine and left leg condition under case File Nos. xxxxxx878 and xxxxxx105. It found that the evidence of record did not show that he sustained a consequential condition that disabled him from his work duties or that he had continuing disability as a result of his right quadriceps injury.

The Board has duly considered the matter and finds that the case is not in posture for decision. Pursuant to its procedures, OWCP has determined that cases should be combined where correct adjudication depends on cross-referencing between files. The records for case File Nos. xxxxxx878 and xxxxxx105 are not presently before the Board. For a full and fair adjudication, those claims, pertaining to appellant's lumbar and left lower extremity conditions, should be combined with the previous claim, File No. xxxxxx192, pursuant to OWCP procedures.² This will allow OWCP to consider all relevant claim files in developing his claim. Moreover, to consider appellant's appeal at this stage would involve a piecemeal adjudication of the issues in this case and raise the possibility of inconsistent results. It is the Board's policy to avoid such an outcome.³

The case will be remanded to OWCP to combine the records for case File Nos. xxxxxx192, xxxxxx878, and xxxxxx105. Following this and such other development as deemed necessary, OWCP shall issue an appropriate merit decision on appellant's claim.

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

³ See *William T. McCracken*, 33 ECAB 1197 (1982).

IT IS HEREBY ORDERED THAT the January 23, 2017 decision of the Office of Workers' Compensation Programs is set aside and the matter remanded to OWCP for further proceedings consistent with this order.⁴

Issued: February 5, 2018
Washington, DC

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

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

⁴ Colleen Duffy Kiko, Judge, participated in the original decision, but was no longer a member of the Board effective December 11, 2017.