

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

_____)	
L.R., Appellant)	
)	
and)	Docket No. 19-0194
)	Issued: August 21, 2019
U.S. POSTAL SERVICE, POST OFFICE,)	
Roswell, GA, 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
JANICE B. ASKIN, Judge

JURISDICTION

On November 5, 2018 appellant filed a timely appeal from an August 17, 2018 decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 19-0194.

On July 9, 2015 appellant, then a 55-year-old letter carrier, filed a notice of recurrence of disability (Form CA-2a) under OWCP File No. xxxxxx270 alleging that on May 4, 2015 she sustained a recurrence of disability causally related to her accepted July 28, 2012 employment injury. OWCP converted appellant's recurrence claim to a new occupational disease claim, assigned OWCP File No. xxxxxx331. In a narrative statement, appellant noted that following her accepted July 28, 2012 employment injury she had been performing light duty work for eight hours a day while lifting no more than 15 pounds.

By decision dated September 2, 2015, OWCP denied appellant's claim finding that she had not submitted medical evidence establishing causal relationship between her diagnosed back conditions and the accepted factors of her federal employment.

On October 1, 2015 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.

By decision dated April 15, 2016, a hearing representative affirmed the September 2, 2015 decision, finding that the medical evidence of record did not establish causal relationship between appellant's diagnosed back and foot conditions and the accepted factors of her federal employment. By decisions dated June 8, 2017 and August 17, 2018 OWCP denied modification of its prior decision.

The Board finds that this case is not in posture for decision.

Pursuant to 20 C.F.R. § 501.2(c)(1), the Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Decisions on claims are based on the written record, which may include forms, reports, letters, and other evidence of various types such as photographs, videotapes, or drawings.¹ Evidence may not be incorporated by reference, nor may evidence from another individual's case file be used.² Evidence contained in another of the claimant's case files may be used, but a copy of that evidence should be placed into the case file being adjudicated.³ All evidence that forms the basis of a decision must be in that claimant's case record.⁴

In adjudicating the present occupational disease claim, OWCP File No. xxxxxx331, OWCP specifically referenced medical evidence obtained from her prior traumatic injury claim, OWCP File No. xxxxxx270, which was accepted on April 22, 2013 for spinal subluxations. However, it has not administratively combined the two case records or incorporated the referenced evidence into the current case record.⁵ The Board is therefore not in a position to make an informed decision regarding appellant's entitlement to FECA benefits.⁶ The Board case shall remand the case to OWCP to administratively combine case OWCP File Nos. xxxxxx331 and xxxxxx270. Following this and any other further development as deemed necessary, it shall issue a *de novo* decision regarding appellant's occupational disease claim under OWCP File No. xxxxxx331.

¹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.5(a) (June 2011).

² *Id.*; *G.K.*, 18-1594 (issued March 8, 2019)

³ *Id.*

⁴ *Id.*

⁵ See Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000) (cases should be combined when correct adjudication of the issues depends on frequent cross-referencing between files); *G.K.*, *supra* note 2.

⁶ See *G.K.*, *id.*; *C.R.*, Docket No. 17-1262 (issued May 21, 2018); *K.P.*, Docket No. 15-1945 (issued February 10, 2016); *M.C.*, Docket No. 15-1706 (issued October 22, 2015).

IT IS HEREBY ORDERED THAT the August 17, 2018 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further action consistent with this order of the Board.

Issued: August 21, 2019
Washington, DC

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

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board