

After further development of the case record, OWCP denied appellant's claim finding that the medical evidence of record was insufficient to establish that her diagnosed bilateral carpal tunnel syndrome was causally related to the accepted factors of her federal employment. However, by decision dated July 28, 2016, a hearing representative set aside the prior decision and remanded the case to OWCP for further development, which included referral for a second opinion evaluation.

On remand OWCP referred appellant to Dr. Victoria M. Langa, a Board-certified orthopedic surgeon, who examined appellant on December 30, 2016 and diagnosed bilateral carpal tunnel syndrome.³ Dr. Langa indicated that appellant's carpal tunnel syndrome was not work related.

OWCP again denied appellant's claim by decision dated January 12, 2017. By decision dated September 20, 2017, an OWCP hearing representative found there remained an unresolved conflict in the medical opinion evidence, and therefore, set aside the January 12, 2017 decision and remanded the case for referral to an impartial medical examiner (IME).

In a report dated March 22, 2018, Dr. Mark E. Baratz, a Board-certified orthopedic surgeon serving as an IME, determined that appellant's bilateral carpal tunnel syndrome was not work related.

By decision dated April 9, 2018, OWCP again denied appellant's claim. It accorded the special weight of the medical evidence to the March 22, 2018 report of IME Dr. Baratz.

Counsel timely requested a hearing before a representative of OWCP's Branch of Hearings and Review, held on July 11, 2018. He challenged OWCP's reliance on the IME's opinion, noting that he had not offered an alternative cause for appellant's carpal tunnel syndrome or adequately explained why her custodial duties were insufficient to have either caused or contributed to her bilateral carpal tunnel condition.

By decision dated August 29, 2018, an OWCP hearing representative affirmed the April 9, 2018 decision, finding that the medical reports submitted in the present claim, as well as medical reports contained in File No. xxxxxx139. In affirming the decision dated April 9, 2018, the hearing representative noted that, on September 18, 2013, appellant was involved in a work-related motor vehicle accident which had been accepted for cervical strain in File No. xxxxxx139. The hearing representative further noted that OWCP had continued to develop the medical record as to her cervical strain, including sending appellant for a second opinion orthopedic examination on February 18, 2015 by Dr. Langa, who reportedly addressed appellant's cervical sprain and also diagnosed bilateral carpal tunnel syndrome. OWCP did not image these documents the referenced medical evidence into the present claim file.

The Board finds that the 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,

³ Dr. Langa noted that she had previously evaluated appellant on February 18, 2015 with respect to her September 18, 2013 work-related cervical sprain.

videotapes, or drawings.⁴ Evidence may not be incorporated by reference, nor may evidence from “another claimant’s case file” be used.⁵ 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.⁶ All evidence that forms the basis of a decision must be in that claimant’s case record.⁷

As noted, OWCP’s August 29, 2018 decision referenced evidence associated with OWCP File No. xxxxxx139. It also discussed Dr. Langa’s February 18, 2015 second opinion examination, which reportedly diagnosed bilateral carpal tunnel syndrome which is the diagnosed condition in the present claim. Although OWCP relied upon the aforementioned report in denying appellant’s claim for FECA benefits, it neglected to include the referenced information in the current case file. Because of this oversight, the Board is not in a position to make an informed decision regarding appellant’s claim.⁸ Therefore, the case shall be remanded to OWCP for further development to be followed by a *de novo* decision regarding appellant’s entitlement to FECA benefits with respect to her June 10, 2015 occupational disease claim.

IT IS HEREBY ORDERED THAT the August 29, 2018 decision of the Office of Workers’ Compensation Programs is set aside and the case is remanded to OWCP for further proceedings consistent with this order of the Board.

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.5(a) (June 2011).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *See O.R.*, Docket No. 18-0013 (issued April 9, 2018); *K.P.*, Docket No. 15-1945 (issued February 10, 2016); *M.C.*, Docket No. 15-1706 (issued October 22, 2015).

Issued: December 31, 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