

with an October 2, 2002 date of injury. The case records associated with appellant's bilateral wrist and shoulder conditions are not currently before the Board.

Under the current cervical injury claim, OWCP File No. xxxxxx545, appellant filed an August 25, 2016 claim for a schedule award (Form CA-7). In an August 15, 2016 report, Dr. Mike Shah, a pain management specialist, found 24 percent right upper extremity permanent impairment due to motor and sensory deficits affecting the C6 and C7 nerve roots. In a September 22, 2016 report, OWCP's district medical adviser (DMA) found six percent permanent impairment of the right upper extremity and two percent permanent impairment of the left upper extremity based on a combination of motor and/or sensory deficits affecting the C5 and C6 nerve roots. However, in a March 12, 2018 supplemental report, he concurred with Dr. Shah's finding of 24 percent right upper extremity permanent impairment, with an August 15, 2016 date of maximum medical improvement.

By decision dated July 26, 2018, OWCP denied appellant's claim for a schedule award. It noted that, although the DMA concurred with Dr. Shah's 24 percent right upper extremity spinal nerve impairment rating, appellant previously received schedule awards totaling 29 percent permanent impairment of the right upper extremity under OWCP File Nos. xxxxxx480 and xxxxxx200. As the current 24 percent right upper extremity permanent impairment rating did not exceed the prior award(s), OWCP found that appellant was not entitled to additional schedule award compensation.

On August 14, 2018 appellant requested reconsideration of the July 26, 2018 decision and submitted an August 7, 2018 letter from Dr. Shah.

By decision dated September 12, 2018, OWCP again denied appellant's claim for a schedule award due to his accepted cervical condition. It noted his various accepted conditions under OWCP File Nos. xxxxxx480 and xxxxxx200 and referenced two related schedule awards for bilateral upper extremity permanent impairment. OWCP reiterated that because Dr. Shah's 24 percent right upper extremity (cervical-related) impairment rating did not exceed the prior right upper extremity award(s), appellant failed to establish entitlement to additional schedule award compensation.

On October 16, 2018 appellant again requested reconsideration. He submitted a September 27, 2018 report from Dr. Shah, who distinguished appellant's current cervical-related impairment from the previous wrist- and shoulder-related impairments. Dr. Shah also noted that the DMA agreed with his rating of 24 percent permanent impairment of the right upper extremity.

By decision dated January 4, 2019, OWCP denied appellant's request for reconsideration.

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.² Evidence may not be incorporated by reference, nor may evidence from

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

“another individual’s” case file be used.³ Evidence contained in another of the claimant’s case file(s) may be used, but a copy of that evidence should be placed into the case file being adjudicated.⁴ All evidence that forms the basis of a decision must be in that claimant’s case record.⁵

In adjudicating appellant’s schedule award claim under, OWCP File No. xxxxxx545, OWCP specifically referenced information and decisions obtained from his other claims, assigned File Nos. xxxxxx480 and xxxxxx200. However, it has not administratively combined the above-referenced case records, or at least incorporated the relevant evidence and/or referenced prior schedule award decisions into the current case record.⁶ As OWCP neglected to include the referenced information from File Nos. xxxxxx480 and xxxxxx200 in the current case record, the Board is not in a position to make an informed decision regarding whether OWCP properly denied merit review of appellant’s current schedule award claim.⁷ Therefore, the case shall be remanded to OWCP to administratively combine File Nos. xxxxxx545, xxxxxx480, and xxxxxx200. After OWCP has developed the record consistent with the above-noted directive, it shall issue a *de novo* decision.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ See Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8c (February 2000) (cases should be combined when correct adjudication of the issues depends on frequent cross-reference between files).

⁷ See *L.H.*, Docket No. 17-1960 (issued August 16, 2018); *K.P.*, Docket No. 15-1945 (issued February 10, 2016).

IT IS HEREBY ORDERED THAT the January 4, 2019 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: 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