

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

_____)	
D.B., Appellant)	
)	
and)	Docket No. 19-0002
)	Issued: November 1, 2019
U.S. POSTAL SERVICE, POST OFFICE,)	
Dade City, FL, 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

On October 1, 2018 appellant filed a timely appeal from an August 24, 2018 decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as Docket No. 19-0002.¹

On August 8, 2003 appellant, then a 39-year-old modified distribution clerk, filed an occupational disease claim (Form CA-2) alleging that she sustained carpal tunnel syndrome causally related to factors of her federal employment. OWCP accepted the claim for bilateral carpal tunnel syndrome and bilateral tendinitis of the wrists. It assigned OWCP File No. xxxxxx651.

By decision dated December 4, 2017, OWCP denied appellant's claim for a recurrence of a medical condition causally related to her accepted employment injury.

On January 3, 2018 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

¹ Appellant timely requested oral argument before the Board. By order dated March 12, 2019, the Board exercised its discretion and denied the request as the matter could be adequately addressed based on a review of the case record. *Order Denying Oral Argument*, Docket No. 19-0002 (issued March 12, 2019).

By decision dated August 24, 2018, OWCP's hearing representative affirmed the December 4, 2017 decision. He noted that appellant had a previously accepted claim for bilateral carpal tunnel syndrome, assigned OWCP File No. xxxxxx154. The hearing representative indicated that during the telephonic hearing appellant had advised that she sought medical benefits and wage-loss compensation from February 2005 onward. He determined that appellant had not established a recurrence of disability or worsening of a medical condition due to her accepted employment injury. The hearing representative noted that she had not been released from care under OWCP File No. xxxxxxx651 and thus her case remained open for medical expenses. In reaching his determination, he reviewed medical evidence, including a report from a second opinion physician, which is found in OWCP File No. xxxxxx154.

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.³ 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.⁴ All evidence that forms the basis of a decision must be in that claimant's case record.⁵

In adjudicating appellant's recurrence claim under OWCP File No. xxxxxx651, OWCP's hearing representative specifically referenced medical evidence obtained from her other claim, assigned OWCP File No. xxxxxx154. However, OWCP has not administratively combined the case records for her two claims, both accepted for bilateral carpal tunnel syndrome, or incorporated the referenced evidence into the current case record.⁶ For a full and fair adjudication the case must be returned to OWCP to combine the current case record with OWCP File No. xxxxxx154.⁷ Therefore, the case shall be remanded to OWCP to consolidate OWCP File Nos. xxxxxx651 and xxxxxx154. After OWCP has developed the record consistent with the above-noted directive, it shall issue a *de novo* decision.

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

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *See id.* at *File Maintenance and Management*, Chapter 2.400.8c (February 2000) (cases should be administratively 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 August 24, 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.

Issued: November 1, 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