

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

K.F., Appellant)	
)	
and)	Docket No. 19-0554
)	Issued: October 21, 2019
DEPARTMENT OF DEFENSE, CAMP)	
LEJEUNE SCHOOL, Camp Lejeune, NC)	
Employer)	
)	

Appearances: *Case Submitted on the Record*
*Daniel F. Read, Esq., for the appellant*¹
Office of Solicitor, for the Director

ORDER REMANDING CASE

Before:
CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge

On January 15, 2019 appellant, through counsel, filed a timely appeal from a September 26, 2018 decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 19-0554.

On April 10, 2018 appellant, then a 55-year-old custodial worker, filed an occupational disease claim (Form CA-2) alleging a back injury due to factors of his federal employment, repetitive work activities over a period of years. He noted that he first became aware of his claimed condition on January 1, 2000, but did not realize the connection to his federal employment until August 20, 2009. Appellant stopped work on September 30, 2015.

Appellant has three prior OWCP claims accepted for lumbar sprain. On December 16, 2009 OWCP accepted that appellant sustained a lumbar sprain due to traumatic employment injury under OWCP File No. xxxxxx682. Under OWCP File No. xxxxxx987, it accepted a lumbar sprain

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; see also 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

due to a traumatic employment injury on January 17, 2014. On June 14, 2014 OWCP accepted a lumbar sprain due to a traumatic employment injury under OWCP File No. xxxxxx620.

The Board has duly considered the matter and concludes that this case is not in posture for decision. OWCP's procedures provide that cases should be administratively combined when correct adjudication of the issues depends on frequent cross-referencing between files.² For example, if a new injury case is reported for an employee who previously filed an injury claim for a similar condition or the same part of the body, doubling is required.³ Herein, appellant has three accepted claims for lumbar sprains, assigned OWCP File Nos. xxxxxx682, xxxxxx987, and xxxxxx620. He then filed an occupational disease claim for the same body part, assigned OWCP File No. xxxxxx546, which is the claim presently before the Board. The evidence pertaining to OWCP File Nos. xxxxxx682, xxxxxx987, and xxxxxx620, however, is not part of the case record presently before the Board.

For a full and fair adjudication, the case must be returned to OWCP to administratively combine the current case record with OWCP File Nos. xxxxxx682, xxxxxx987, and xxxxxx620, and determine whether appellant has provided sufficient rationalized medical evidence to establish a back condition causally related to factors of his federal employment. Following this and such further development as OWCP deems necessary, it shall issue a *de novo* decision. Accordingly,

IT IS HEREBY ORDERED THAT the September 26, 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.

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

³ *Id.*; *D.C.*, Docket No. 19-0100 (issued June 3, 2019); *N.M.*, Docket No. 18-0833 (issued April 18, 2019); *K.T.*, Docket No. 17-0432 (issued August 17, 2018).

Issued: October 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