

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

S.C., Appellant)	
)	
and)	Docket No. 19-1771
)	Issued: April 28, 2020
DEPARTMENT OF HOMELAND SECURITY,)	
OFFICE OF INSPECTOR GENERAL,)	
Denver, CO, Employer)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGEARLD, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

On August 26, 2019 appellant filed a timely appeal from an August 6, 2019 decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 19-1771.¹

On May 25, 2018 appellant, then a 37-year-old lead inspector, filed an occupational disease claim (Form CA-2) alleging that she developed bilateral carpal tunnel syndrome due to the factors of her federal employment, including typing. She related that she had a prior OWCP claim for carpal tunnel syndrome, that she experienced a recurrence of her symptoms, and that her physician advised that her carpal tunnel syndrome had relapsed.² Appellant noted that she first became aware

¹ The Board notes that appellant submitted additional evidence on appeal. However, the Board's *Rules of Procedure* provides: "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. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

² OWCP assigned the present claim OWCP File No. xxxxx138. Appellant has a prior accepted April 17, 2006 occupational disease claim (Form CA-2) that was accepted for bilateral carpal tunnel syndrome and left synovitis and tenosynovitis under OWCP File No. xxxxx651.

of her condition on May 17, 2018 and first became aware that it was caused or aggravated by factors of her federal employment on May 18, 2018.

In a June 2, 2018 development letter, OWCP informed appellant that additional evidence was required in support of her claim. It advised her of the type of medical evidence necessary to establish her claim and afforded her 30 days to submit the requested evidence.

OWCP subsequently received nerve conduction velocity studies dated June 19, 2018.

By decision dated July 13, 2018, OWCP denied appellant's occupational disease claim, finding that the evidence of record was insufficient to establish a diagnosed condition in connection with the accepted factors of her federal employment. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On July 31, 2019 appellant requested reconsideration and submitted additional evidence. In reports dated October 8, 2018 and July 10, 2019 Dr. Christopher B. Ryan, Board-certified in physical medicine and rehabilitation discussed appellant's carpal tunnel syndrome from April 17, 2006, as well as the status of her current condition.

By decision dated August 6, 2019, OWCP denied appellant's reconsideration request, finding that it was untimely filed and failed to demonstrate clear evidence of error.

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.³ 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.⁴ Herein, appellant has an accepted claim for bilateral carpal tunnel syndrome, assigned OWCP File No. xxxxxx651. She subsequently filed an occupational disease claim for the same region of the body on May 25, 2018, assigned OWCP File No. xxxxxx138, which is the claim presently before the Board. The evidence pertaining to OWCP File No. xxxxxx651, 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 No. xxxxxx138 so it can determine whether appellant has submitted sufficient evidence to demonstrate clear evidence of error. Following this and such further development as OWCP deems necessary, it shall issue an appropriate decision. Accordingly,

³ See Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000).

⁴ *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).

IT IS HEREBY ORDERED THAT the August 6, 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: April 28, 2020
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board