

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

M.B., Appellant)	
)	
and)	Docket No. 20-1175
)	Issued: December 31, 2020
U.S. POSTAL SERVICE, MAIN STREET)	
STATION POST OFFICE, Springfield, MA,)	
Employer)	
)	

Appearances:
Katherine Smith, Esq., for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge

On May 19, 2020 appellant, through counsel, filed a timely appeal from a December 13, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as Docket No. 20-1175.

On January 6, 2017 appellant, then a 58-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on that date he injured his right shoulder, neck, and mid and lower back when he tripped while in the performance of duty. On the reverse side of the claim form the employing establishment acknowledged that on January 6, 2017 appellant was injured while in the performance of duty. It stated that appellant stopped work on January 7, 2017. OWCP assigned the claim OWCP File No. xxxxxx213.

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.

In a development letter dated February 14, 2017, OWCP advised appellant that, when his claim was first received, it appeared to be a minor injury that resulted in minimal or no lost time from work, and it was therefore administratively approved to allow payment of a limited amount of medical expenses. The merits of the claim, however, had not been formally adjudicated. OWCP stated that appellant's claim was now reopened for consideration because his medical bills exceeded \$1,500.00. It informed appellant that additional evidence was needed in support of his claim. OWCP advised him of the type of factual and medical evidence necessary to establish the claim. It afforded appellant 30 days to submit the requested evidence.

By decision dated April 14, 2017, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish causal relationship between appellant's diagnosed conditions and the accepted January 6, 2017 employment incident.

On October 27, 2017, December 28, 2018, and October 31, 2019 appellant, through counsel, requested reconsideration. By decisions dated January 23, 2018, January 9, 2019, and December 13, 2019, OWCP denied modification.

The Board finds that this case is not in posture for decision.

On September 26, 2009 appellant filed a traumatic injury claim (Form CA-1) alleging that on February 21, 2009 he slipped and injured his lower back while in the performance of duty. OWCP assigned the claim OWCP File No. xxxxxxx749. On July 29, 2010 appellant filed a traumatic injury claim (Form CA-1) alleging that on that date he injured his lower back and neck when he fell while in the performance of duty. It assigned the claim OWCP File No. xxxxxx174 and accepted the claim for a lumbar sprain and a back contusion. On December 18, 2011 appellant filed an occupational disease claim (Form CA-2) alleging that on July 29, 2010 he injured his back, neck, and shoulders while in the performance of duty. OWCP assigned the claim OWCP File No. xxxxxx092. On January 28, 2015 appellant filed a traumatic injury claim (Form CA-1) alleging that on January 24, 2015 he slipped and injured his mid and lower back while in the performance of duty. OWCP assigned the claim File No. xxxxxx262. On April 9, 2016 appellant filed a traumatic injury claim (Form CA-1) alleging that he aggravated a preexisting back injury and injured his neck and shoulders on that date when lifting mail and twisted left while in the performance of duty. OWCP assigned the claim OWCP File No. xxxxxxx552.

OWCP's procedures provide that cases should be administratively combined when correct adjudication of the issues depends on frequent cross-referencing between case 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

As the instant claim under OWCP File No. xxxxxx213 and the claims under OWCP File No. xxxxxx749, xxxxxx174, xxxxxx092, xxxxxx262, and xxxxxx552 all involve injuries to appellant's lower back, neck, and/or right shoulder, these claims must be administratively

² *R.R.*, Docket No. 19-0368 (issued November 26, 2019); Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance & Management*, Chapter 2.400.8c (February 2000).

³ *Id.*

combined for a full and fair adjudication.⁴ This will allow OWCP to consider all relevant claim files and accompanying evidence in developing appellant's current traumatic injury claim.

Accordingly, the Board will remand the case to OWCP to administratively combine OWCP File Nos. xxxxxx213, xxxxxx749, xxxxxx174, xxxxxx092, xxxxxx262, and xxxxxx552. Following this and such other further development as deemed necessary, OWCP shall issue a *de novo* decision on appellant's traumatic injury claim.

IT IS HEREBY ORDERED THAT the December 13, 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, 2020
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

⁴ *S.D.*, Docket No. 19-0590 (issued August 28, 2020).