

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

S.S., Appellant)	
)	
and)	Docket No. 19-1597
)	Issued: June 22, 2020
U.S. POSTAL SERVICE, BAKER MAIN POST OFFICE, Baker, LA, Employer)	
)	

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

Case Submitted on the Record

ORDER REMANDING CASE

Before:
CHRISTOPHER J. GODFREY, Deputy Chief Judge
PATRICIA H. FITZGERALD, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

On July 22, 2019 appellant filed a timely appeal from February 4 and June 3, 2019 merit decisions of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 19-1597.¹

On February 6, 2007 appellant, then a 43-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that, on that date, she sustained injuries to her right arm, wrist, and shoulder as a result of falling backward after being attacked by a dog while in the performance of duty. OWCP assigned the claim File No. xxxxxx753 and accepted it for right wrist contusion, right rotator cuff sprain, brachial neuritis or radiculitis, cervicalgia, spondylolisthesis of the cervical region, spinal stenosis of the cervical region, cervical disc disorder with myelopathy, and cervical disc disorder at C5-6 with radiculopathy.

On January 15, 2013 appellant filed a notice of traumatic injury (Form CA-1) alleging that on that day she sustained a right-side and low back injury when she picked up a tray of mail in the

¹ The Board notes that following the June 3, 2019 decision, OWCP received additional evidence. 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.*

performance of duty. Appellant stopped work on January 15, 2013. OWCP assigned File No. xxxxxx229 and accepted the claim for temporary aggravation of lumbar spine ligament sprain. On February 4, 2019 it last denied appellant's claim for wage-loss compensation for leave without pay (LWOP) from June 17 through December 17, 2013 under OWCP File No. xxxxxx229.

On February 8, 2019 appellant claimed intermittent compensation for LWOP from June 17 through December 27, 2013, under OWCP File No. xxxxxx753.

By decision dated June 3, 2019, OWCP denied appellant's wage-loss compensation claim for the period June 13 through December 27, 2013. It noted that she had sustained another work injury on January 15, 2013, which had been accepted for aggravation of lumbar sprain under OWCP File No. xxxxxx229. OWCP further noted that appellant had claimed disability from work for the period June 17 through December 17, 2013 under File No. xxxxxx229.

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 Cases involving overlapping periods of disability and a different condition or bodily member have also been cited as examples as to when doubling is required.⁴

Appellant's claim for wage-loss compensation for LWOP from June 17 through December 17, 2013 was denied by OWCP under OWCP File No. xxxxxx229 on February 4, 2019. The period of disability under consideration for the present claim under OWCP File No. xxxxxx753 substantially overlaps with the period denied under OWCP File No. xxxxxx229, and the accepted conditions under each claim include spinal conditions. However, the case files had not been administratively combined by OWCP at the time of the decision dated June 3, 2019.

As such, the Board finds that for full and fair adjudication, the case must be returned to OWCP to administratively combine OWCP File Nos. xxxxxx753 and xxxxxx229. Following this and other such further development as it deems necessary, OWCP shall issue a *de novo* decision. Accordingly,

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

³ *Id.*; *L.G.*, Docket No. 18-1676 (issued August 22, 2019); *D.L.*, Docket No. 17-1588 (issued January 28, 2019); *K.T.*, Docket No. 17-0432 (issued August 17, 2018).

⁴ *See R.A.*, Docket No. 14-1828 (issued February 25, 2015); *A.P.*, Docket No. 13-1245 (issued April 15, 2014); *A.C.*, Docket No. 13-0711 (July 13, 2013).

IT IS HEREBY ORDERED THAT the June 3, 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: June 22, 2020
Washington, DC

Christopher J. Godfrey, Deputy 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