

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

_____)	
M.P., Appellant)	
)	
and)	Docket No. 20-0277
)	Issued: June 29, 2020
DEPARTMENT OF THE TREASURY,)	
INTERNAL REVENUE SERVICE,)	
Richmond, VA, Employer)	
_____)	

Appearances:
Russell T. Uliase, Esq., for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:
ALEC J. KOROMILAS, Chief Judge
CHRISTOPHER J. GODFREY, Deputy Chief Judge
PATRICIA H. FITZGERALD, Alternate Judge

On November 19, 2019 appellant, through counsel, filed a timely appeal from a May 22, 2019 decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 20-0277.

On August 25, 2018 appellant, then a 48-year-old tax fraud investigative assistant, filed a recurrence claim (Form CA-2a) alleging that she had developed bilateral carpal tunnel syndrome and an acute pain in both wrists and elbows due to excessive typing for eight hours or more per day for many years. She indicated that she had previously sustained a bilateral wrist injury as a result of constant typing for which she had a claim under OWCP File No. xxxxxx961.

By decision dated December 14, 2018, OWCP found that the evidence of record established that appellant's federal duties required excessive typing and repetitive computer keying

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.

usage and contained a medical diagnosis, but denied the claim as the evidence of record was insufficient to establish causal relationship between her diagnosed conditions and the accepted factors of her federal employment.

On December 21, 2018 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. An oral hearing was held on April 11, 2019. The record was held open for 30 days to allow the submission of additional evidence. No further evidence was received.

By decision dated May 22, 2019, OWCP's hearing representative affirmed the December 14, 2018 decision. However, she indicated that since appellant's prior work-related carpal tunnel condition had been cross-referenced in the instant case, she directed OWCP to administratively combine the instant case with File No. xxxxxx961 to provide a complete and accurate factual and medical history. The Board notes, however, that the electronic case record as transmitted to the Board indicates that OWCP has not administratively combined the claim files as directed by the hearing representative.

The Board has duly considered the matter and finds that the case is not in posture for decision. OWCP's procedures provide that cases should be administratively combined when correct adjudication depends on cross-referencing between files or when two or more injuries occur to the same part of the body.² Appellant alleged a recurrence of a previously accepted claim in OWCP File No. xxxxxx961, however, the claim was converted to a new injury claim assigned OWCP File No. xxxxxx018, thus the Board finds that frequent cross-referencing of the claims is required. The Board therefore finds, that for a full and fair adjudication, the case must be returned to OWCP to administratively combine the current case record with OWCP File No. xxxxxx961. Following this and other such further development as OWCP deems necessary, it shall issue a *de novo* decision.

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

IT IS HEREBY ORDERED THAT the May 22, 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 29, 2020
Washington, DC

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

Christopher J. Godfrey, Deputy Chief Judge
Employees' Compensation Appeals Board

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