

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

---

<p><b>L.B., Appellant</b></p>	)	
	)	
<b>and</b>	)	<b>Docket No. 19-0775</b>
	)	<b>Issued: January 16, 2020</b>
<p><b>DEPARTMENT OF DEFENSE, DEFENSE LOGISTICS AGENCY, TINKER AIR FORCE BASE, OK, Employer</b></p>	)	
	)	

---

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

*Case Submitted on the Record*

**ORDER REMANDING CASE**

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

On February 25, 2019 appellant filed a timely appeal from an October 18, 2018 decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 19-0775.

On October 6, 2011 appellant, then a 45-year-old management analyst, filed a traumatic injury claim (Form CA-1) alleging that on September 16, 2011 she developed left arm, elbow, and shoulder soreness when she and a coworker moved a file cabinet. She did not stop work. On January 20, 2012 OWCP accepted the claim for left shoulder and upper arm sprain. Appellant underwent an authorized left rotator cuff repair on July 31, 2012. On August 26, 2013 OWCP granted her a schedule award for 12 percent permanent impairment of the left upper extremity.

In a report dated April 13, 2018, Dr. Terrell Phillips, a Board-certified anesthesiologist, noted that appellant required continuing medical maintenance for her September 16, 2011 employment injuries.

On July 16, 2018 appellant filed a recurrence claim (Form CA-2a) for medical treatment beginning April 13, 2018.

In a development letter dated September 6, 2018, OWCP advised appellant that the evidence of record was insufficient to establish her claim for recurrence of the need for further medical treatment. It advised her of the type of medical evidence required to support her claim.<sup>1</sup> Appellant was afforded 30 days to provide the information requested.

Appellant subsequently submitted an August 31, 2018 progress note from Dr. Phillips detailing medical management treatment, which he related was for the accepted September 16, 2011 employment injury.

By decision dated October 18, 2018, OWCP denied appellant's October 6, 2011 traumatic injury claim finding the medical evidence of record was insufficient to establish that her diagnosed left shoulder primary osteoarthritis and other cervical disc displacement were caused or aggravated by factors of her federal employment.

The Board, having duly considered the matter, finds that the case is not in posture for decision.

On January 20, 2012 OWCP accepted appellant's October 6, 2011 traumatic injury claim for left shoulder and upper arm sprain. Appellant filed a claim for a recurrence of medical treatment beginning April 13, 2018. In its October 18, 2018 decision, however, OWCP failed to adjudicate her claim for recurrence for medical treatment.<sup>2</sup> FECA provides that OWCP shall determine and make findings of fact in making an award for or against payment of compensation after considering the claim presented by the employee and after completing such investigation as it considers necessary with respect to the claim.<sup>3</sup> OWCP did not discuss whether the evidence submitted was sufficient to establish appellant's recurrence claim.

Furthermore, in its October 18, 2018 decision, OWCP did not make sufficient findings as to whether acceptance of the claim should be expanded to include additional medical conditions. Appellant bears the burden of proof to establish that the additional diagnosed conditions were causally related to the accepted employment injury.<sup>4</sup> She sought to expand the acceptance of her claim to include left shoulder primary osteoarthritis and other cervical disc displacement. This issue has not been properly adjudicated.

Thus, the case must be returned to OWCP for a proper determination which includes findings of fact as to whether appellant has established a recurrence of medical treatment causally related to her accepted employment conditions and whether the acceptance of the claim should be

---

<sup>1</sup> The Board notes that OWCP has not issued a decision in this case terminating appellant's right to medical treatment for her accepted conditions.

<sup>2</sup> 5 U.S.C. § 8124(a) provides that OWCP shall determine and make a finding of facts and make an award for or against payment of compensation. 20 C.F.R. § 10.126 provides that its final decision shall contain findings of fact and a statement of reasons. *See also H.O.*, Docket No. 19-0198, *Order Remanding Case* (issued July 3, 2019).

<sup>3</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.5(c) (February 2013). *See also H.O.*, *id.*; *R.B.*, Docket No. 17-0912 (issued January 23, 2018); *L.R.*, Docket No. 15-0235 (issued December 21, 2015); *Patrick Michael Duffy*, 43 ECAB 280 (1991).

<sup>4</sup> *M.M.*, Docket No. 19-0951 (issued October 24, 2019); *Jaja K. Asaramo*, 55 ECAB 200 (2004).

expanded to include the additional diagnosed conditions. Following this and such further development as OWCP deems necessary, it shall issue a *de novo* decision.<sup>5</sup>

**IT IS HEREBY ORDERED THAT** the October 18, 2018 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: January 16, 2020  
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

---

<sup>5</sup> The Board notes that upon return of the case record OWCP shall administratively combine the current file with appellant's claim in File No. xxxxxx938.