

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

_____)	
I.S., Appellant)	
)	
and)	Docket No. 19-0112
)	Issued: May 13, 2020
U.S. POSTAL SERVICE, POST OFFICE,)	
Santa Ana, CA, 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. FITZGERALD, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

On October 19, 2018 appellant filed a timely appeal from a September 4, 2018 merit decision of the Office of Workers' Compensation Programs (OWCP).¹ The Clerk of the Appellate Boards assigned Docket No. 19-0112.

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

On May 13, 2016 appellant, then a 61-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that on May 9, 2016 she sustained a right wrist injury when pulling and pushing equipment into trailers while in the performance of duty. She stopped work and first received medical care on May 12, 2016 and notified her supervisor on May 13, 2016.

The record reflects that appellant has a prior July 9, 2013 traumatic injury claim, which was accepted for right hand and wrist contusion and tenosynovitis under OWCP File No.

¹ The Board notes that, following the September 4, 2018 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.*

xxxxxx008. On June 27, 2014 appellant underwent right little finger tenosynovectomy.² In September 2014, she returned to full duty work without restrictions.

In support of her claim, appellant submitted medical and diagnostic reports documenting treatment for her right wrist condition beginning May 12, 2016 through July 26, 2018.

By decisions dated June 30, 2016, April 3 and September 21, 2017, and September 4, 2018, OWCP denied the claim, finding that the evidence of record was insufficient to establish that the diagnosed right wrist conditions were causally related to the accepted May 9, 2016 employment incident.

In its denial of appellant's traumatic injury claim, OWCP noted that her prior case history revealed a similar preexisting right wrist injury and that she also had several other cases involving the right upper extremity. It reviewed her claim under File No. xxxxxx008 and discussed medical documents, which pertained to that claim. OWCP specifically noted review of a 2013 magnetic resonance imaging (MRI) scan of the right wrist and January 2014 x-ray of the right wrist in OWCP File No. xxxxxx008, which is not in the current record before the Board. It found that tenosynovitis of the right hand/wrist was already accepted under appellant's previous claim and the medical reports of record failed to establish a new traumatic injury on May 9, 2016.

The Board notes that appellant submitted medical reports from Dr. Edward Mittleman, a Board-certified family practitioner, Dr. Basimah Khulusi, Board-certified in physical medicine and rehabilitation, and Dr. Charles Herring, a Board-certified orthopedic surgeon. In its denial of appellant's claim, OWCP rejected these medical reports based on the physicians' failure to review prior diagnostic studies related to appellant's right wrist under OWCP File No. xxxxxx008. However, those diagnostic studies are not contained in the current file.

The Board's review of the case is limited to the evidence, which was before OWCP at the issuance of the final decision.³ Since the record as transmitted to the Board does not contain evidence that OWCP relied upon in reaching its final decision, the Board is unable to properly "consider and decide" appellant's claim.⁴ Furthermore, OWCP's procedures provide that cases should be administratively combined where correct adjudication depends on cross-referencing

² The record also reflects that appellant has additional prior workers' compensation claims relating to the right upper extremity. Under OWCP File No. xxxxxx658, appellant alleged that on October 5, 2012 she was poked by a wooden splinter on her right mid volar forearm while picking up a wooden pallet at work and sustained a minor puncture wound. Under OWCP File No. xxxxxx310, OWCP accepted that on October 18, 2012 appellant sustained neck and back (thoracic) strains, as well as cervical intervertebral disc degeneration, when lifting a towing bar in the performance of duty. Appellant underwent OWCP-approved neck surgeries on July 31, 2003, July 6, 2004, and June 23, 2011. Under OWCP File No. xxxxxx954, OWCP accepted that on August 13, 2015 she sustained right elbow and shoulder sprains after opening a jammed trailer door in the performance of duty.

³ See 20 C.F.R. § 501.2(c)(1).

⁴ *L.K.*, Docket No. 19-0313 (issued September 4, 2019); *K.P.*, Docket No. 17-1667 (issued March 8, 2018).

between files.⁵ 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.⁶

The Board will remand the case to OWCP to administratively combine File No. xxxxxx008 with the current claim, File No. xxxxxx973, and determine whether appellant sustained either a May 9, 2016 work injury or progression of a previously accepted work injury.⁷ Following this and other such further development as it deems necessary, OWCP shall issue a *de novo* decision.⁸ Accordingly,

IT IS HEREBY ORDERED THAT the September 4, 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: May 13, 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

⁵ See Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000).

⁶ *Id.*; *D.L.*, Docket No. 17-1588 (issued January 28, 2019); *K.T.*, Docket No. 17-0432 (issued August 17, 2018).

⁷ See *L.H.*, Docket No. 17-1960 (issued August 16, 2018); *K.P.*, Docket No. 15-1945 (issued February 10, 2016); *M.C.*, Docket No. 15-1706 (issued October 22, 2015).

⁸ *M.B.*, Docket No. 18-1290 (issued August 13, 2019); *A.V.*, Docket No. 16-1370 (issued April 14, 2017).