

On December 7, 2007 appellant, then a 40-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that he injured his back, neck, and right shoulder that day when he slipped and fell in the parking lot while in the performance of duty. OWCP accepted the claim for sprain of back, lumbar region, and sprain of shoulder and upper arm, acromioclavicular, right. Appellant stopped work on the date of injury and received continuation of pay through January 20, 2008. He received wage-loss compensation on the supplemental rolls as of January 20, 2008 and on the periodic rolls as of April 12, 2009. OWCP assigned the claim File No. xxxxxx062.

By decision dated May 11, 2012, OWCP terminated appellant's wage-loss compensation and medical benefits. By nonmerit decision dated September 14, 2012, it denied his August 16, 2012 reconsideration request. On November 6, 2012 appellant filed an appeal with the Board. By decision dated July 12, 2013, the Board found that OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits for the accepted lumbar and right shoulder sprains, but that it did not meet its burden to terminate right shoulder tendinitis.⁴

OWCP thereafter paid retroactive wage-loss compensation to the date of termination, and returned appellant to the periodic rolls. Appellant returned to part-time modified duty work on September 12, 2014, and OWCP adjusted his monetary compensation accordingly.

On January 16, 2015 appellant was in a motor vehicle accident that was not employment related. He stopped work on that date.

In August 2015, OWCP referred appellant to Dr. Stanley Askin, a Board-certified orthopedic surgeon, for a second-opinion evaluation. The statement of accepted facts (SOAF) provided to Dr. Askin indicated that appellant had an additional claim for a May 22, 2003 injury, adjudicated by OWCP under File No. xxxxxx445, and accepted for lumbosacral sprain. The SOAF indicated that, following the 2003 injury, appellant had returned to full-time limited duty. OWCP instructed Dr. Askin to base his opinion on the SOAF.

Dr. Askin opined that appellant had no residuals of the accepted conditions, and as such, on February 1, 2016, OWCP proposed to terminate appellant's wage-loss compensation and medical benefits for both File No. xxxxxx445 and File No. xxxxxx062. By decision dated March 4, 2016, OWCP finalized the termination, concluding that appellant had no residuals or continuing disability as a result of either the May 22, 2003 or the December 7, 2007 accepted employment injuries.

Appellant requested a hearing with OWCP's Branch of Hearings and Review on April 1, 2016. By decision dated September 2, 2016, a hearing representative affirmed the March 4, 2016 decision.⁵

⁴ *Id.*

⁵ Appellant was separated from the employing establishment due to disability effective July 10, 2016.

By decisions dated December 16, 2016, and March 20, June 30, and November 21, 2017, OWCP denied modification of its prior decisions.⁶

Appellant next requested reconsideration on June 5, 2018. He maintained that his disability since the January 16, 2015 motor vehicle accident was employment related, that he had additional compensable conditions, and that File No. xxxxxx445 remained open, noting that low back surgery had been authorized. Appellant submitted additional medical evidence.

By decision dated November 9, 2018, OWCP found the evidence submitted of insufficient probative value to modify its prior decisions.

The Board has duly considered the matter and finds that this case is not in posture for decision. Upon review of the case record submitted by OWCP, the Board finds that the record before it is incomplete.

OWCP's procedures provide that cases should be administratively combined when correct adjudication of the issues depends on frequent cross-referencing between files.⁷ 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.⁸ As noted, by decision dated March 4, 2016, OWCP terminated appellant's wage-loss compensation and medical benefits under both File No. xxxxxx062 and File No. xxxxxx445. Both File No. xxxxxx445 and File No. xxxxxx062 are accepted for lumbar conditions. The case record before the Board, however, does not contain File No. xxxxxx445. As these two case files have not been administratively combined, the Board is unable to determine if OWCP properly terminated appellant's wage-loss compensation and medical benefits under either or both files on March 4, 2016 and, if so, whether appellant has met his burden of proof to establish continuing disability and/or entitlement to medical benefits in either case after that date.⁹

For full and fair adjudication, the case must be returned to OWCP to administratively combine the current case record with OWCP File No. xxxxxx445 to determine appellant's disability status and entitlement to medical benefits under both claims.¹⁰

Following this and such further development as it deems necessary, OWCP shall issue a *de novo* decision. Accordingly,

⁶ Appellant had requested reconsideration on October 3 and December 24, 2016, April 4 and August 31, 2017. He submitted medical evidence with each request.

⁷ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000); *D.E.*, Docket No. 19-0880 (issued January 6, 2020).

⁸ *D.E.*, *id.*

⁹ *See T.M.*, Docket No. 19-1065 (issued December 17, 2019).

¹⁰ *Id.*

IT IS HEREBY ORDERED THAT the November 9, 2018 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: March 20, 2020
Washington, DC

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

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board