

Appellant submitted an August 24, 2016 report from Dr. James A. Brady, a Board-certified hand surgeon, who indicated that appellant presented with left thumb pain complaints and exhibited symptoms of left carpal tunnel syndrome and Dupuytren's contracture of the left hand. On September 14, 2016 Dr. Brady advised that recent diagnostic testing showed bone spurs in appellant's left thumb and that his examination confirmed left carpal tunnel syndrome.³ After OWCP requested, on March 16, 2017, that appellant submit additional evidence, she submitted an April 14, 2017 report from Dr. Juan J. Gargiulo, a Board-certified anesthesiologist, who diagnosed several conditions, including left carpal tunnel syndrome and chronic pain syndrome.

By decision dated April 26, 2017, OWCP denied appellant's claim finding that she had not submitted medical evidence sufficient to establish causal relationship between the claimed conditions and the accepted employment duties. It noted that Dr. Brady failed to provide medical rationale regarding the present occupational disease claim given that appellant previously had a "similar case" under OWCP File No. xxxxxx863, which had been accepted for left hand osteoarthritis.⁴

On May 26, 2017 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review. The hearing was held on November 15, 2017.

By decision dated December 22, 2017, OWCP's hearing representative affirmed OWCP's April 26, 2017 decision. She advised that, in reaching her determination, she had reviewed medical reports associated with appellant's prior left upper extremity claim under OWCP File No. xxxxxx863, including: reports dated between January 17 and June 29, 2016 from Dr. Teresa Habacker, a Board-certified hand surgeon; reports dated between July 18 and October 27, 2016 from Dr. Gargiulo; and an August 30, 2016 report from Dr. Elizabeth White-Fricker, a Board-certified family practitioner.⁵

On June 19, 2018 appellant, through counsel, requested reconsideration of the December 22, 2017 decision. She submitted a June 14, 2018 report from Dr. Brady who discussed her medical history, including surgery he performed on August 1, 2017 to remove left thumb bone spurs and to decompress her left carpal tunnel.

By decision dated November 19, 2018, OWCP denied modification of its December 22, 2017 decision.

The Board finds that the case is not in posture for decision. Pursuant to 20 C.F.R. § 501.2(c)(1), 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. Decisions on claims are based on the written record, which may include forms, reports, letters, and other evidence of various types such as photographs,

³ Appellant submitted February 17, 2016 electromyogram and nerve conduction velocity studies showing left carpal tunnel syndrome and a September 14, 2016 computerized tomography scan of the left hand showing evidence of prior surgery, mild ulna subluxation, and small left thumb erosions.

⁴ OWCP advised that appellant's previous claim had a "date of injury" of March 3, 2014.

⁵ The hearing representative asserted that none of these reports addressed appellant's work duties or contained an opinion relating these duties to her current left upper extremity condition.

videotapes, or drawings.⁶ Evidence may not be incorporated by reference, nor may evidence from another claimant's case file be used.⁷ Evidence contained in another of the claimant's case files may be used, but a copy of that evidence should be placed into the case file being adjudicated.⁸ All evidence that forms the basis of a decision must be in that claimant's case record.⁹

In adjudicating appellant's present claim, OWCP File No. xxxxxx910, OWCP specifically referenced medical evidence obtained from an earlier claim, OWCP File No. xxxxxx863. However, it did not combine the case records related to appellant's left upper extremity claim or incorporate the referenced evidence into the current case record.¹⁰ As noted, all evidence that forms the basis of a decision must be included in the case record.¹¹ Because OWCP neglected to include evidence that helped to form the basis for its determination regarding appellant's left upper extremity claim in the current case record (*i.e.*, evidence from OWCP File No. xxxxxx863), the Board is not in a position to make an informed decision regarding appellant's entitlement to FECA benefits.¹² Therefore, the case shall be remanded to OWCP to administratively combine OWCP File Nos. xxxxxx863 and xxxxxx910. After this and other further development deemed necessary, OWCP shall issue a *de novo* decision regarding appellant's claim for a left upper extremity injury.

⁶ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.5a (June 2011).

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* See also *G.O.*, Docket No. 18-1483 (issued June 20, 2019).

¹⁰ See Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8c (February 2000) (cases should be administratively combined when correct adjudication of the issues depends on frequent cross-reference between files).

¹¹ See *supra* note 9.

¹² 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).

IT IS HEREBY ORDERED THAT the November 19, 2018 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further action consistent with this order of the Board.

Issued: March 26, 2020
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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