

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

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L.R., Appellant)	
)	
and)	Docket No. 19-0712
)	Issued: March 27, 2020
DEPARTMENT OF HOMELAND SECURITY,)	
TRANSPORTATION SECURITY)	
ADMINISTRATION, Milwaukee, WI, 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
 CHRISTOPHER J. GODFREY, Deputy Chief Judge
 PATRICIA H. FITZGERALD, Alternate Judge

On February 19, 2019 appellant filed a timely appeal from a November 14, 2018 decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 19-0712.

The case has previously been before the Board.¹ The facts and circumstances as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On April 15, 2015 appellant, then a 46-year-old transportation security officer, filed an occupational disease claim (Form CA-2) alleging recurrent facial cellulitis commencing in December 2006 due to factors of her federal employment including exposure to methicillin-resistant staphylococcus aureus (MRSA) in a breakroom and restroom. OWCP assigned the claim File No. xxxxxx918.² By decisions dated October 29, 2015 and August 2, 2016, it denied

¹ Docket No. 16-1673 (issued February 20, 2018).

² On May 31, 2017 appellant filed an occupational disease claim (Form CA-2) alleging that she sustained recurrent facial cellulitis commencing May 8, 2015 due to alleged MRSA exposures in an employing establishment rest room and break room. OWCP assigned that claim File No. xxxxxx633. On March 16, 2018 OWCP accepted that appellant sustained a temporary aggravation of facial cellulitis.

appellant's claim as she had not established the presence of MRSA bacteria at the employing establishment. On August 17, 2016 appellant appealed to the Board.

By decision dated February 20, 2018 the Board affirmed OWCP's August 2, 2016 OWCP decision finding that appellant had not established the presence of MRSA bacteria at the employing establishment as alleged.

On August 30, 2018 appellant requested reconsideration. She asserted that as OWCP accepted facial cellulitis under File No. xxxxxx633, it was obligated to accept her occupational disease claim for the same condition under File No. xxxxxx918. By decision dated November 14, 2018, OWCP denied modification finding that the evidence submitted on reconsideration failed to establish the presence of MRSA bacteria at the employing establishment.

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 of the issues depends on cross-referencing between files.³ 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.⁴

Appellant filed two occupational disease claims alleging that she sustained recurrent facial cellulitis due to MRSA exposure while in the performance of duty. OWCP denied the claim under File No. xxxxxx918, but accepted the claim under File No. xxxxxx633. For a full and fair adjudication, the claims in File Nos. xxxxxx918 and xxxxxx633 must be administratively combined.⁵ This will allow OWCP to consider all relevant claim files in developing this claim and avoid further inconsistent results.⁶ Following this and such other further development as deemed necessary, OWCP shall issue a *de novo* decision on appellant's claims.

³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000).

⁴ A.C., Docket No. 18-1783 (issued July 29, 2019); *J.M.*, Docket No. 19-0008 (issued July 10, 2019).

⁵ FECA Procedure Manual, *supra* note 3 at Chapter 2.400.8(c)(1); A.C., *id.*; L.S., Docket Nos. 17-1863, 17-1867, 17-1868 (issued April 18, 2018).

⁶ A.C., *supra* note 4; *William T. McCracken*, 33 ECAB 1197 (1982).

IT IS HEREBY ORDERED THAT the November 14, 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 27, 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