

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

M.P., Appellant)	
)	
and)	Docket No. 20-0829
)	Issued: November 30, 2020
U.S. POSTAL SERVICE, POST OFFICE,)	
Carol Stream, IL, Employer)	
)	

Appearances:
Vivian Henderson, for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge

On February 27, 2020 appellant, through her representative, filed a timely appeal from a February 20, 2020 nonmerit decision of the Office of Workers' Compensation Programs (OWCP) under File No. xxxxxx633.² The Clerk of the Appellate Boards docketed the appeal as No. 20-0829.

On September 17, 2011 appellant, then a 55-year-old automation clerk, filed a traumatic injury claim (Form CA-1) alleging that earlier that day she sustained injuries to her feet, knees, head, elbows, shoulders, and a uterine prolapse with vaginal bleeding when loading trays of mail onto the top of a five-tier letter rack while in the performance of duty.

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² Appellant timely requested oral argument before the Board. *See* 20 C.F.R. § 501.5(b). In light of the Board's disposition of this appeal, the oral argument request is denied.

Prior to appellant's September 19, 2011 traumatic injury claim, OWCP accepted: February 2, 2002, right shoulder, right hand, and cervical spine sprains under File No. xxxxxx155; July 16, 2006, left de Quervain's and left radial styloid tenosynovitis under File No. xxxxxx949; January 11, 2008, bilateral lower leg contusions under File No. xxxxxx926;³ August 1, 2008, right forearm and facial contusions under File No. xxxxxx256; May 1, 2009, bilateral tarsal tunnel syndrome under File No. xxxxxx696; and an August 7, 2009, lumbar sprain under File No. xxxxxx298. Additionally, under OWCP File No. xxxxxx944, appellant claimed bilateral carpal tunnel syndrome, bilateral tarsal tunnel syndrome, conditions of the bilateral shoulders, elbows, and cervical spine on May 14, 2019. By decision dated March 31, 2020 under OWCP File No. xxxxxx944, an OWCP hearing representative remanded the claim for further development of the medical evidence and directed OWCP to administratively combine appellant's claims under File Nos. xxxxxx155, xxxxxx541, xxxxxx949, xxxxxx696, xxxxxx926, xxxxxx298, and xxxxxx944, as they concerned the same parts of the body. OWCP combined the claims under File No. xxxxxx926 effective April 17, 2020.

Appellant also filed two prior claims for uterine prolapse. Under OWCP File No. xxxxxx496, appellant claimed a uterine prolapse and pelvic relaxation syndrome due to repetitive lifting on or before May 1, 2009. Under OWCP File No. xxxxxx787, appellant claimed a uterine prolapse caused by repetitive heavy lifting on or before February 1, 2011. OWCP denied both claims. Additionally, appellant filed an occupational disease claim under OWCP File No. xxxxxx281 for a March 1, 2006, right shoulder injury related to pushing postal containers and carts, which OWCP also denied.

By decision dated December 2, 2011 and reissued December 20, 2011, OWCP denied appellant's traumatic injury claim under File No. xxxxxx633, finding that the medical evidence of record was insufficient to establish causal relationship between diagnosed musculoskeletal conditions, uterine prolapse, and appellant's employment duties. Following the submission of additional medical evidence, it again denied appellant's claim by decision dated April 19, 2012.

On May 8, 2012 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review. By decision dated August 20, 2012, an OWCP hearing representative denied appellant's claim as the medical evidence of record failed to differentiate between the effects of the employment-related injury and appellant's prior upper extremity, lower extremity, spinal, and uterine conditions. In denying the claim, the hearing representative referenced medical evidence from OWCP File Nos. xxxxxx281, xxxxxx298, xxxxxx496, and xxxxxx787.

On April 23, 2013 appellant requested reconsideration of OWCP's April 19, 2012 decision. By decision dated May 1, 2013, OWCP denied appellant's request for reconsideration, finding that it untimely filed and failed to demonstrate clear evidence of error. Appellant then appealed to the Board.

³ Under OWCP File No. xxxxxx926, on August 5, 2013, OWCP granted appellant schedule awards for four percent permanent impairment of the right lower extremity and two percent permanent impairment of the left lower extremity.

By order dated March 25, 2014,⁴ the Board set aside OWCP's May 1, 2013 decision, finding that appellant's April 23, 2013 reconsideration request, was timely filed within one year of the August 20, 2012 merit decision.

By decision dated July 16, 2014, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish causal relationship between the accepted September 17, 2011 incident, and the claimed musculoskeletal and uterine conditions.

In a letter dated June 30, 2015 and received by OWCP on July 23, 2015, appellant requested reconsideration.

By decision dated October 19, 2015, OWCP denied modification, finding that the medical evidence of record was insufficient to establish causal relationship. It noted that appellant's claim for uterine prolapse also implicated evidence under File No. xxxxxx496.

On December 10, 2019 appellant requested reconsideration of OWCP's October 19, 2015 decision.

By decision dated February 20, 2020, OWCP denied reconsideration finding that appellant's December 10, 2019 reconsideration request was untimely filed and failed to demonstrate clear evidence of error.

The Board, having duly considered the matter, finds that this case is not in posture for decision. OWCP's procedures provide that cases should be administratively combined when correct adjudication depends on cross-referencing between files and where two or more injuries occur to the same part of the body.⁵ In the present claim, appellant alleged injuries to her head, upper and lower extremities, and uterus. OWCP previously accepted that appellant sustained: de Quervain's tenosynovitis and radial styloid tenosynovitis under File No. xxxxxx926; right forearm and facial contusions under File No. xxxxxx256; a lumbar sprain under File No. xxxxxx944; and bilateral tarsal tunnel syndrome under File No. xxxxxx696. There is also extensive medical evidence in OWCP File No. xxxxxx496 regarding the claimed uterine prolapse. For a full and fair adjudication, the claims in OWCP File Nos. xxxxxx256, xxxxxx496, and xxxxxx633 should be combined with the claims administratively combined under File No. xxxxxx926.

Under its procedures, OWCP has determined that cases should be combined where a new injury case is reported for an employee who previously filed an injury claim for the same part of

⁴ *Supra* note 2.

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

the body and where correct adjudication depends on cross-referencing between files.⁶ This will allow OWCP to consider all relevant claim files in developing this schedule award claim.⁷

Accordingly, the Board will remand the case to OWCP to administratively combine OWCP File Nos. xxxxxx256, xxxxxx496, and xxxxxx633 with the claims under Master File No. xxxxxx926. Following this and other such development as deemed necessary, OWCP shall issue a *de novo* merit decision on appellant's claim.

IT IS HEREBY ORDERED THAT the February 20, 2020 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: November 30, 2020
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

⁶ *Id.* at Chapter 2.400.8(c)(1); *W.W.*, Docket No. 19-0884 (issued June 16, 2020); *L.P.*, Docket Nos. 18-1558, 18-1568 (issued June 21, 2019); *L.S.*, Docket Nos. 17-1863, 17-1867, 17-1868 (issued April 18, 2018); *W.S.*, Docket No. 15-0969 (issued October 5, 2015); *C.C.*, Docket No. 14-1576 (issued March 9, 2015).

⁷ *Id.*