

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

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<b>W.H., Appellant</b>	)	
	)	
<b>and</b>	)	<b>Docket No. 20-0986</b>
	)	<b>Issued: April 27, 2021</b>
<b>U.S. POSTAL SERVICE, CAPITOL HILL</b>	)	
<b>ANNEX POST OFFICE, Denver, CO, Employer</b>	)	
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*Appearances:*  
*Stephanie Leet, Esq., for the appellant*<sup>1</sup>  
*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 April 7, 2020 appellant, through counsel, filed a timely appeal from a March 4, 2020 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 20-0986.

On November 9, 2017 appellant, then a 58-year-old collector, filed an occupational disease claim (Form CA-2) alleging that she injured her right arm due to factors of her federal employment. She noted that she first became aware of her condition and realized that it was caused or aggravated by factors of her federal employment on August 1, 2017. Appellant explained that on August 1, 2017 she was parked on a hill in a downgrade position and when she exited her truck the sliding door slid forward and slammed on her right arm.<sup>2</sup> She underwent two months of therapy to treat

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<sup>1</sup> 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.

<sup>2</sup> Appellant previously filed a traumatic injury claim for a right shoulder injury related to the August 1, 2017 employment incident in which her truck door slammed on her shoulder under OWCP File No. xxxxxx108. On November 20, 2017 OWCP accepted her claim for a right shoulder sprain. On May 31, 2019 it expanded acceptance

her injury, but noticed that pain in her lower arm and fingers worsened. OWCP assigned the claim File No. xxxxxx171.

Appellant subsequently submitted medical evidence relating to diagnosed right carpal tunnel syndrome, as well as her accepted right shoulder conditions.

By decision dated January 29, 2018, OWCP denied appellant's occupational disease claim, finding that the medical evidence of record was insufficient to establish that her diagnosed medical condition was causally related to the accepted factors of her federal employment.

On March 1, 2018 appellant requested reconsideration of OWCP's January 29, 2018 decision.

By decision dated July 25, 2018, OWCP denied appellant's request for reconsideration, finding that it failed to raise a substantive legal question or include new and relevant evidence.

On January 10, 2019 appellant, through counsel, requested reconsideration of OWCP's January 29, 2018 decision. Counsel provided a memorandum in which she asserted that new medical reports from Dr. John Aschberger, Board-certified in physical medicine and Dr. Alireza Alijani, a Board-certified orthopedic surgeon, were sufficient to prove that her carpal tunnel syndrome was causally related to the factors of her federal employment. She explained that appellant's employment duties included repetitive grasping and fingering through mail, for hours each day, which resulted in her right carpal tunnel syndrome. Counsel further indicated that appellant underwent surgery to treat her condition on March 31, 2018 with Dr. Alijani.

By decision dated January 14, 2019, OWCP denied modification of its January 29, 2018 decision, finding that the evidence of record was insufficient to establish causal relationship.

On December 27, 2019, appellant, through counsel, requested reconsideration of OWCP's January 14, 2019 decision. Counsel reasoned that a new medical report from Dr. Aschberger was sufficient to demonstrate that appellant's carpal tunnel syndrome was causally related to her employment duties.

By decision dated March 4, 2020, OWCP denied modification of its January 14, 2019 decision.

The Board has duly considered the matter and concludes that this 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 frequent cross-referencing between files or when two or more injuries occur to the same part of the body.<sup>3</sup> For example, if a new injury is reported for an employee who previously filed an injury claim for a similar condition or the same part of the

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of appellant's claim to include a right shoulder rotator cuff tear. Appellant's claims have not been administratively combined.

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

body or when two or more separate injuries have occurred on the same date, doubling is required.<sup>4</sup> Herein, appellant had a prior traumatic injury claim for a right shoulder sprain and a right shoulder rotator cuff tear caused by an August 1, 2017 employment incident to which OWCP assigned OWCP File No. xxxxxx108. She then filed an occupational disease claim for right carpal tunnel syndrome and indicated that she first became aware of her condition after the August 1, 2017 employment incident in which she injured her right arm and shoulder during the same employment incident in which the sliding door on her truck slammed on her right arm, which is the claim presently before the Board assigned OWCP File No. xxxxxx171. The case record associated with OWCP File No. xxxxxx108, however, is not presently before the Board.

For a full and fair adjudication, the Board finds that the case must be returned to OWCP to administratively combine the current case record with OWCP File No. xxxxxx108 so it can properly determine whether appellant has established that her diagnosed right carpal tunnel syndrome was causally related to the accepted factors of her federal employment. Following this and other such further development as OWCP deems necessary, it shall issue a *de novo* decision. Accordingly,

**IT IS HEREBY ORDERED THAT** the March 4, 2020 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: April 27, 2021  
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

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<sup>4</sup> *Id.*, *L.H.*, Docket No. 18-1777 (issued July 2, 2019).