

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

M.O., Appellant	)	
	)	
and	)	Docket No. 20-0821
	)	Issued: January 26, 2021
U.S. POSTAL SERVICE, RAVENSWOODS	)	
STATION POST OFFICE, Chicago, IL,	)	
Employer	)	
	)	

*Appearances:*  
Stephanie N. 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 March 3, 2020 appellant, through counsel, filed a timely appeal from a January 7, 2020 merit decision of the Office of Workers' Compensation Programs (OWCP) under File No. xxxxxx819. The Clerk of the Appellate Boards docketed the appeal as No. 20-0821.

On October 26, 2017 appellant, then a 43-year-old city carrier, filed an occupational disease claim (Form CA-2) alleging that she developed tendinitis due to factors of her federal employment, including stocking, obtaining supplies, and moving equipment.<sup>2</sup> She noted that she

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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> The present claim was assigned OWCP File No. xxxxxx819.

first became aware of her condition on June 5, 2017 and first realized that it was caused or aggravated by her federal employment on August 23, 2017.<sup>3</sup>

By decision dated January 26, 2018, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish causal relationship between the diagnosed conditions and the accepted factors of her employment.

On August 7, 2018 and October 7, 2019 appellant requested reconsideration and submitted additional medical evidence.

By decisions dated October 18, 2018 and January 7, 2020, OWCP denied modification.

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 where correct adjudication depends on cross-referencing between files and where two or more injuries occur to the same part of the body.<sup>4</sup> In the instant case, appellant filed an occupational disease claim for "tendinitis." Her prior traumatic injury claim, which OWCP assigned File No. xxxxxx772, was for a left shoulder injury and is not presently before the Board. Similarly, appellant has a prior occupational disease claim for "tendinitis" under OWCP File No. xxxxxx797 that is also not presently before the Board.

The Board thus finds that, for a full and fair adjudication, the claims in OWCP File Nos. xxxxxx819, xxxxxx772, and xxxxxx797 must be administratively combined.<sup>5</sup> This will allow OWCP to consider all relevant claim files and accompanying evidence in developing appellant's current occupational disease claim.<sup>6</sup>

Accordingly, the Board will remand the case to OWCP to administratively combine the files. Additional OWCP files involving appellant's bilateral shoulder and neck conditions, if any, should also be administratively combined with the aforementioned OWCP files. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* merit decision.

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<sup>3</sup> Under OWCP File No. xxxxxx772, OWCP accepted sprain of the left shoulder and upper arm, acromioclavicular; and sprain of back, lumbar region due to a March 12, 2009 traumatic injury. Appellant also has a claim under OWCP File No. xxxxxx797, in which she claimed that she sustained tendinitis due to factors of her federal employment commencing December 15, 2012. That claim has not been accepted for any diagnosed condition. Appellant's claims have not been administratively combined.

<sup>4</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000).

<sup>5</sup> *Id.*; *R.H.*, Docket No. 19-1457 (issued July 17, 2020).

<sup>6</sup> *R.G.*, Docket No. 19-1755 (issued July 7, 2020); *L.M.*, Docket No. 19-1490 (issued January 29, 2020).

**IT IS HEREBY ORDERED THAT** the January 7, 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: January 26, 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