

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

_____)	
I.J., Appellant)	
)	
and)	Docket No. 21-0013
)	Issued: June 29, 2021
U.S. POSTAL SERVICE, POST OFFICE,)	
Memphis, TN, Employer)	
_____)	

Appearances:
*Joanne Marie Wright, for the appellant*¹
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

On October 5, 2020 appellant, through her representative, timely filed an appeal from a May 1, 2020 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 21-0013.

On January 5, 2016 appellant, then a 52-year-old modified letter carrier, filed an occupational disease claim (Form CA-2), alleging that factors of her federal employment caused an emotional condition. OWCP denied the claim under OWCP File No. xxxxxx096 on April 16, 2015. Appellant requested reconsideration and OWCP denied modification of the April 16, 2015 decision on August 16, 2016, and November 30, 2017, finding that appellant had not established that she sustained an emotional condition in the performance of duty.

In OWCP's last merit decision, dated November 30, 2017, OWCP referenced appellant's prior claim in OWCP File No. xxxxxx373 regarding aggravation of a preexisting and accepted emotional condition. It also referenced another prior claim by appellant in OWCP File No.

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.

xxxxxx699. In referring to that claim, OWCP discussed various limited-duty positions offered to appellant, who indicated that she accepted the assignments under protest. Appellant had alleged that she suffered emotionally and financially from the modified work assignments.

Having duly considered the matter, the Board finds that the case is not in posture for a decision. Under its procedures, OWCP has determined that cases should be administratively combined when correct adjudication of the issues depends on frequent cross-reference between files.² In the instant case, OWCP referenced appellant's prior claims in File Nos. xxxxxx373 and xxxxxx699, and appellant alleged that her preexisting and accepted emotional condition was aggravated. OWCP's procedures provide for doubling of a claim when a new injury case is reported for an employee who previously filed a claim for a similar condition or the same part of the body, or where two or more separate injuries, not recurrences, have occurred on the same date.³

Therefore, for a full and fair adjudication, the case shall be remanded for OWCP to administratively combine the present claim with appellant's prior claims under File Nos. xxxxxx373 and xxxxxx699. Following this and such other development as deemed necessary, OWCP shall issue a *de novo* decision on appellant's claim for compensation.

IT IS HEREBY ORDERED THAT the May 1, 2020 decision of the Office of Workers' Compensation Programs be set aside and the case is remanded for further proceedings consistent with this order of the Board.

Issued: June 29, 2021
Washington, DC

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

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

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board

² Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (September 2011).

³ *Id.* at Chapter 2.400.8(c)(1)-(2).