

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

V.B., Appellant	)	
	)	
and	)	<b>Docket No. 21-0108</b>
	)	<b>Issued: June 2, 2021</b>
	)	
U.S. POSTAL SERVICE, RICHMOND HILL	)	
POST OFFICE, Richmond Hill, GA, Employer	)	
	)	

*Appearances:*  
Erik B. Blowers, Esq., for the appellant<sup>1</sup>  
Office of Solicitor, for the Director

*Case Submitted on the Record*

**ORDER REMANDING CASE**

Before:  
JANICE B. ASKIN, Judge  
PATRICIA H. FITZGERALD, Alternate Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

On November 2, 2020 appellant, through counsel, filed a timely appeal from a May 7, 2020 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 21-0108.

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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.

On August 2, 2018 appellant, then a 59-year old postmaster, filed a traumatic injury claim (Form CA-1) alleging that on July 20, 2018 she sustained injury to her lower back, neck, both shoulders, and both hands/wrists when she was struck by a hamper while in the performance of duty. OWCP assigned the claim OWCP File No. xxxxxx287.<sup>2</sup>

Appellant subsequently submitted reports dated July 27, September 10 and December 18, 2018, and January 7, 2019 from Dr. Thomas Loumeau, a Board-certified orthopedic surgeon. Dr. Loumeau related that appellant was hit with a hamper filled with parcels at work and she had numbness and tingling in both arms and both legs, as well as pain in her neck and mid and low back. He diagnosed cervicalgia, cervical disc degeneration, cervical spondylosis, cervical radiculopathy, cervical spine enthesopathy, lumbar intervertebral disc degeneration, lumbar spondylosis, and lumbar radiculopathy.

In a development letter dated March 20, 2019, OWCP advised appellant that additional factual and medical evidence was necessary to establish her claim. It requested that appellant submit a narrative medical report from her attending physician, which includes the physician's opinion supported by a medical explanation as to how the reported employment incident caused or aggravated the claimed injury. OWCP afforded appellant 30 days to submit the necessary evidence.

By decision dated April 29, 2019, OWCP accepted that the July 20, 2018 employment incident occurred, as alleged, but denied appellant's traumatic injury claim in File No. xxxxxx287 as causal relationship had not been established between a diagnosed medical condition and the accepted employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On February 7, 2020 appellant, through counsel, requested reconsideration.

In support of her reconsideration request, appellant submitted a letter dated February 5, 2020 from Dr. Christopher Bovinet, an osteopathic physician, Board-certified in pain medicine, physical medicine, and rehabilitation. Dr. Bovinet stated that appellant's July 20, 2018 injury caused an aggravation of her existing cervical and lumbar medical conditions.

By decision dated March 6, 2020, OWCP modified its April 29, 2020 decision, finding that the evidence of record established that the incident occurred as alleged, and that appellant had diagnosed medical conditions, but denied appellant's claim as causal relationship had not been established between the diagnosed medical conditions and the accepted employment incident.

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<sup>2</sup> The record reflects that appellant has had several other injuries to her back, shoulders, and neck. OWCP accepted a February 24, 2012 traumatic injury claim for lumbar and cervical sprain, and bilateral sprains of the shoulders, upper arms, and rotator cuff, under OWCP File No. xxxxxx554. On February 18, 2016 it expanded the acceptance of appellant's claim to include lumbar and cervical spondylosis with radiculopathy, and lumbar intervertebral disc displacement. On July 25, 2017 appellant filed a notice of recurrence (Form CA2a) alleging that on March 30, 2017 she sustained a recurrence of disability causally related to her February 24, 2012 employment injury. OWCP converted the recurrence claim to an occupational disease claim (Form CA-2) and assigned OWCP File No. xxxxxx785.

On April 13, 2020 appellant, through counsel, requested reconsideration.

In support of her reconsideration request, appellant submitted a letter dated April 10, 2020 from Dr. Bovinet. Dr. Bovinet stated that the July 20, 2018 employment incident caused an aggravation of appellant's lumbar, cervical, and bilateral shoulder and arm conditions. He stated that the acute injury caused appellant immediate pain and aggravation of appellant's preexisting conditions. Dr. Bovinet further related that being struck by the mail cart caused severe compression and irritation of appellant's spine.

By decision dated May 7, 2020, OWCP denied modification of its March 6, 2020 decision.

The Board, having duly considered this matter, finds 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 case files.<sup>3</sup> 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.<sup>4</sup> In the present claim, appellant alleged injuries to her back, neck, shoulders, hands, and wrists. OWCP previously accepted her claim for injury to her neck, back, shoulder, and arm under OWCP File No. xxxxxx554. It had also converted appellant's claim for recurrence of disability under OWCP File No. xxxxxx554 into an occupational disease claim under OWCP File No. xxxxxx785. However, evidence pertaining to those files is not part of the case record presented before the Board. For a full and fair adjudication, the case must be returned to OWCP to administratively combine the current case record with OWCP File No. xxxxxx554 and OWCP File No. xxxxxx785, so it can consider all relevant claim files and accompanying evidence in adjudicating appellant's current traumatic injury claim.

Accordingly, the Board will remand the case to OWCP to administratively combine the present claim with OWCP File No. xxxxxx554 and OWCP File No. xxxxxx785. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

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<sup>3</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance & Management*, Chapter 2.400.8c (February 2000); *T.D.*, Docket No. 20-1119 (issued January 29, 2021); *R.R.*, Docket No. 19-0368 (issued November 26, 2019).

<sup>4</sup> *Id.*; *M.B.*, Docket No. 20-1175 (issued December 31, 2020); *L.M.*, Docket No. 19-1490 (issued January 29, 2020).

**IT IS HEREBY ORDERED THAT** the April 29, 2019 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: June 2, 2021  
Washington, DC

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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

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