



Prior to appellant's occupational disease claim (Form CA-2) in File No. xxxxxx923, OWCP had accepted a December 28, 2012 traumatic injury claim (Form CA-1) for a right upper extremity contusion, under File No. xxxxxx635, sustained when he slipped on ice and fell directly onto his right shoulder.

In reports dated September 20 and 25, 2017, Dr. Richard McCormack, a Board-certified orthopedic surgeon, noted appellant's history of a December 28, 2012 employment-related right shoulder injury. He found that appellant's symptoms worsened on March 21, 2017 after reaching quickly with his right arm while at work. Dr. McCormack diagnosed impingement syndrome of the right shoulder and a right rotator cuff strain. In a report dated November 16, 2017, he also diagnosed a right rotator cuff strain and superior glenoid labrum lesion.

By decision dated May 4, 2018, OWCP denied appellant's traumatic injury claim, finding that the evidence of record failed to establish that his diagnosed conditions were causally related to the accepted March 21, 2017 employment incident.

In a letter dated and postmarked June 7, 2018, appellant requested a review of the written record before a representative of OWCP's Branch of Hearings and Review. He submitted a June 6, 2018 medical report from Dr. McCormack, who opined that the March 21, 2017 reaching incident likely strained or worsened a preexisting superior labrum anterior posterior (SLAP) tear.

By decision dated July 20, 2018, the hearing representative denied appellant's request for a hearing as untimely filed, finding that his request was not made within 30 days of the May 4, 2018 decision. He further indicated that he exercised his discretion, but determined that this issue in this case could equally well be addressed by a request for reconsideration before OWCP along with the submission of new evidence. OWCP administratively converted appellant's request for a review of the written record to a request for reconsideration.

By decision dated October 18, 2018, OWCP denied modification as the evidence submitted on reconsideration was insufficient to warrant modification of its May 4, 2018 decision.

On November 6, 2018 appellant requested reconsideration.<sup>2</sup> By decision dated January 7, 2019, OWCP denied reconsideration, finding that appellant's November 6, 2018 reconsideration request did not raise substantive legal questions or include new, relevant evidence.

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 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>3</sup> It accepted that appellant sustained an occupational right shoulder contusion under File No. xxxxxx635. However, OWCP denied appellant's claim under File No. xxxxxx923 for a traumatic right shoulder condition caused by a March 21, 2017 employment incident superimposed

---

<sup>2</sup> In a November 1, 2018 letter, appellant indicated that an enclosed November 1, 2018 report by Dr. McCormack was sufficient to establish causal relationship. The imaged case record as presented to the Board does not contain the November 1, 2018 report.

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

on the accepted contusion. For a full and fair adjudication, the claims in OWCP File Nos. xxxxxx635 and xxxxxx923 should be combined.

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 the body and where correct adjudication depends on cross-referencing between files.<sup>4</sup> This will allow OWCP to consider all relevant claim files in developing appellant's claim.<sup>5</sup>

Accordingly, the Board will remand the case to OWCP to combine the case records for File Nos. xxxxxx635 and xxxxxx923. Following this and such further development as deemed necessary, OWCP shall issue a *de novo* decision on appellant's claim.

**IT IS HEREBY ORDERED THAT** the January 7, 2019 and October 18, 2018 decisions of the Office of Workers' Compensation Programs are set aside and the case is remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: March 31, 2021  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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

---

<sup>4</sup> *Id.* at Chapter 2.400.8(c)(1); *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).

<sup>5</sup> *Id.*