

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

S.H., Appellant)	
)	
and)	Docket No. 20-1440
)	Issued: March 12, 2021
DEPARTMENT OF THE ARMY, CIVILIAN)	
PERSONNEL ADVISORY CENTER,)	
Fort Drum, NY, Employer)	
)	

Appearances:
Appellant, pro se
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 July 27, 2020 appellant filed a timely appeal from a June 17, 2020 merit decision of the Office of Workers' Compensation Programs (OWCP).¹ The Clerk of the Appellate Boards docketed the appeal as No. 20-1440.

On November 27, 2019 appellant, then a 50-year-old medical support assistant, filed a traumatic injury claim (Form CA-1) alleging that on that date she injured her right leg, right hip, and back when a sit-stand workstation fell onto her right leg while in the performance of duty. On the reverse side of the claim form, the employing establishment acknowledged that appellant was injured in the performance of duty. Appellant stopped work on November 26, 2019. OWCP assigned the claim OWCP File No. xxxxxx815.

In support of her claim, appellant submitted November 27, 2019 emergency department discharge notes and reports, dated December 3 and 13, 2019, from Dr. Bruce L. Baird, a Board-

¹ The Board notes that, following the June 17, 2020 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

certified orthopedic surgeon who advised that the appellant should remain off work until further notice.

In a development letter dated January 3, 2020, OWCP indicated that when appellant's claim was first received it appeared to be a minor injury that resulted in minimal or no lost time from work and, based on these criteria and because the employing establishment did not controvert continuation of pay or otherwise challenge the case, payment of a limited amount of medical expenses was administratively approved. It explained that it had reopened the claim for consideration of the merits because appellant had not returned to full-duty work. OWCP requested additional factual and medical evidence in support of her claim and provided a questionnaire for her completion. It afforded appellant 30 days to submit the necessary evidence.

OWCP subsequently received December 3, 2019 x-ray reports of appellant's right shoulder and cervical spine, a December 18, 2019 report from Dr. Baird, and January 21, 2020 magnetic resonance imaging (MRI) scans of her lumbar spine and right hip.

By decision dated February 7, 2020, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish a causal relationship between appellant's diagnosed conditions and the accepted November 26, 2019 employment incident.

On February 19, 2020 appellant requested reconsideration and submitted additional medical evidence. By decision dated March 11, 2020, OWCP denied modification of the February 7, 2020 decision.

On April 3, 2020 appellant again requested reconsideration and submitted additional medical evidence. By decision dated June 17, 2020, OWCP denied modification of the March 11, 2020 decision. It reviewed medical records from appellant's traumatic injury claim under OWCP File No. xxxxxx823 and noted that appellant had similar conditions involving the cervical spine, right shoulder, hip, and lumbar spine.

The Board, having duly considered this matter, finds that this case is not in posture for decision.

On February 22, 2016 appellant filed a traumatic injury claim (Form CA-1) alleging that on February 18, 2016 she slipped on ice and injured her right hip and left knee while in the performance of duty. OWCP assigned the claim OWCP File No. xxxxxx823 and accepted the claim for lower back strain, right hip strain, and right hip trochanteric bursitis.

OWCP's procedures provide that cases should be administratively combined when correct adjudication of the issues depends on frequent cross-referencing between case files.² For example,

² 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).

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.³

As the present claim under OWCP File No. xxxxxx815 and the claim under OWCP File No. xxxxxx823 both involve injuries to appellant's spine and right hip, they must be administratively combined for a full and fair adjudication.⁴ This will allow OWCP to consider all relevant claim files and accompanying evidence in developing 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. xxxxxx823. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

IT IS HEREBY ORDERED THAT the June 17, 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: March 12, 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

³ See *M.B.*, Docket No. 20-1175 (issued December 31, 2020).

⁴ *Id.*