

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

_____)	
T.T., Appellant)	
)	
and)	Docket No. 21-0049
)	Issued: May 3, 2021
U.S. POSTAL SERVICE, POST OFFICE,)	
Los Lunas, NM, 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 October 18, 2020 appellant filed a timely appeal from a September 10, 2020 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 21-0049.¹

On December 29, 2015 appellant, then a 47-year-old rural mail carrier, filed a traumatic injury claim (Form CA-1) alleging that, when delivering a package on December 28, 2015, she slipped on ice and landed on her tailbone and elbow while in the performance of duty. OWCP assigned the claim File No. xxxxxx147, and on July 27, 2017 it accepted her claim for an upper back strain, back contusion, sacroiliitis, myalgia, low back strain, sacroiliac subluxation, other thoracic intervertebral disc displacement, aggravated mid-cervical disc degeneration, bladder dysfunction, and contusion of the right elbow. OWCP has continued to receive numerous medical reports in this OWCP file.

¹ The Board notes that OWCP received additional evidence following the September 10, 2020 decision. 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.*

On May 3, 2018 appellant, then a 50-year-old mail carrier, filed a traumatic injury claim (Form CA-1) alleging that on August 16, 2017 she injured her back when she was driving in her employing establishment vehicle and hit a pothole while in the performance of duty. She stated that her back was thrown out of alignment and she experienced immense pain in her lower back and legs, and she related that she was unable to finish her route or stand up and had to be taken by ambulance to the emergency room. OWCP assigned the claim File No. xxxxxx682, and on May 9, 2019 OWCP accepted appellant's claim for an aggravation of other intervertebral disc displacement of the thoracolumbar region.

On July 29, 2019 appellant filed claims for compensation (Form CA-7) for disability for the periods September 7 to December 30, 2017, January 2 to April 28, 2018, and May 28 to July 11, 2018.

In a development letter dated August 5, 2019, OWCP informed appellant of the deficiencies of her claim for compensation. It advised her of the type of medical evidence necessary to establish her claim and provided 30 days for her to submit the requested evidence.

By decision dated September 4, 2019, OWCP denied appellant's compensation claim, finding that the medical evidence of record was insufficient to establish total disability from work for the periods September 7 to December 30, 2017, January 2, 2018 to April 28, 2018, and May 28, 2018 to July 11, 2018.

On September 8, 2020 appellant requested reconsideration. By decision dated September 10, 2020, OWCP denied her reconsideration request, finding that it was untimely filed and failed to demonstrate clear evidence of error.

The Board 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.² 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.³

As the instant claim under OWCP File No. xxxxxx682 and the claim under OWCP File No. xxxxxx147 both involve injuries to appellant's back, these claims must be administratively combined for a full and fair adjudication.⁴ The Board notes that both OWCP files continued to receive medical evidence during the relevant time periods. This will allow OWCP to consider all relevant claim files and accompanying evidence in developing appellant's current compensation claim.

² *R.R.*, Docket No. 19-0368 (issued November 26, 2019); Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance & Management*, Chapter 2.400.8c (February 2000).

³ *Id.*

⁴ *S.D.*, Docket No. 19-0590 (issued August 28, 2020).

Accordingly, the Board will remand the case to OWCP to administratively combine the present claim with OWCP File No. xxxxxx147. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* merit decision on appellant's compensation claim.

IT IS HEREBY ORDERED THAT the September 10, 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: May 3, 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