

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

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<b>M.L., Appellant</b>	)	
	)	
<b>and</b>	)	<b>Docket No. 21-0442</b>
	)	<b>Issued: October 26, 2021</b>
<b>DEPARTMENT OF HOMELAND SECURITY,</b>	)	
<b>CUSTOMS &amp; BORDER PATROL, DULLES</b>	)	
<b>INTERNATIONAL AIRPORT, Sterling, VA,</b>	)	
<b>Employer</b>	)	
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*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  
VALERIE D. EVANS-HARRELL, Alternate Judge

On February 3, 2021 appellant filed a timely appeal from September 23, 2020 and January 6, 2021 merit decisions of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 21-0442.<sup>1</sup>

On July 19, 2020 appellant, then a 49-year-old canine (K9) supervisor filed a traumatic injury claim (Form CA-1) alleging that he sustained injuries to his left hand and elbow while in the performance of duty. He explained that when collecting K9 training aids on July 18, 2020 he grabbed a large case with his left hand and felt a painful popping and a shocking sensation which

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<sup>1</sup> The Board notes that, following the January 6, 2021 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.*

radiated from his left hand to his left elbow. Appellant stopped work on July 18, 2020 and returned to work on July 19, 2020. OWCP assigned the claim File No. xxxxxx372.<sup>2</sup>

In an August 19, 2020 development letter, OWCP advised appellant of the deficiencies of his claim. It requested additional factual and medical evidence and provided a questionnaire for his completion. OWCP afforded appellant 30 days to respond. No response was received.

By decision dated September 23, 2020, OWCP denied appellant's traumatic injury claim finding that he failed to submit medical evidence establishing causal relationship between his diagnosed condition and his accepted employment incident.

On October 19, 2020 appellant requested reconsideration of the September 23, 2020 decision.

By decision dated January 6, 2021, OWCP denied modification of its prior decision.

The Board, having duly considered the matter, finds that this case is not in posture for decision. OWCP's procedures provide that cases should be administratively combined when correct adjudication depends on frequent cross-referencing between 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> Herein, a number of appellant's prior claims, under OWCP File No. xxxxxx609, also involve an injury to his left upper extremity. For a full and fair adjudication, the case must be returned to OWCP to administratively combine the current case record under OWCP File No. xxxxxx372 with OWCP File No. xxxxxx609. This will allow consideration of all relevant claim files and accompanying evidence in developing appellant's current traumatic injury claim. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

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<sup>2</sup> The Board notes that appellant has a number of prior claims involving the left upper extremity that have been administratively combined under OWCP File No. xxxxxx609.

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

<sup>4</sup> *Id.*; *M.L.*, Docket No. 20-1176 (issued April 29, 2021); *L.M.*, Docket No. 19-1490 (issued January 29, 2020); *L.H.*, Docket No 18-1777 (issued July 2, 2019).

**IT IS HEREBY ORDERED THAT** the January 6, 2021 decision of Office of Workers' Compensation Programs is set aside and this case is remanded for further proceedings consistent with this order of the Board.

Issued: October 26, 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