

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

_____)	
M.P., Appellant)	
)	
and)	Docket No. 22-0065
)	Issued: August 8, 2022
U.S. POSTAL SERVICE, POST OFFICE, Portland, ME, Employer)	
_____)	

Appearances:
Paul H. Felser, Esq., for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:
ALEC J. KOROMILAS, Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MGINLEY, Alternate Judge

On October 21, 2021 appellant, through counsel, filed a timely appeal from an April 28, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 22-0065.

On March 20, 2016 appellant, then a 55-year-old international sales representative, filed an occupational disease claim (Form CA-2) alleging that she developed mental stress, depression, anxiety, and post-traumatic stress disorder due to factors of her federal employment, including working in a hostile work environment. She asserted that a series of events contributed to her condition, including bullying at the workplace, an escalation of a hostile work environment leading up to and following the filing of an Equal Employment Opportunity (EEO) complaint, and stress associated with an exacerbation of physical disabilities stemming from an accepted work-related

¹ 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.

injury.² Appellant noted that these incidents caused her to develop situational depression, anxiety, and post-traumatic stress disorder. She noted that she first became aware of her condition and realized that it was caused or aggravated by her employment on March 8, 2016. Appellant stopped work on March 8, 2016. OWCP assigned the present claim OWCP File No. xxxxxx758.

By decision dated August 15, 2016, OWCP denied appellant's emotional condition claim, finding that the evidence of record was insufficient to establish that she experienced the employment factors alleged to have caused the injury. It concluded therefore that the requirements had not been met to establish an injury as defined by FECA.

Following an April 20, 2017 telephonic hearing, by decision dated July 24, 2017, an OWCP hearing representative modified the August 15, 2016 decision, finding that "[a] documented factor of employment has now been established satisfying the factual component" of fact of injury. It further noted that the medical evidence provided diagnoses in connection with the claimed work factors, but affirmed the denial of the claim, finding that there was no compensable factor of employment that occurred in the performance of duty.³

By decisions dated October 12, 2018, February 7, 2020, and April 28, 2021, OWCP denied modification of the prior decisions. In all three decisions, it referenced the prior claim filed by appellant, OWCP File No. xxxxxx912, for repetitive injuries to her upper extremities. OWCP found that the evidence of record failed to establish that the accepted injury in OWCP File No. xxxxxx912, caused or contributed to appellant's alleged stress claim.

The Board has duly considered the matter and concludes that this case is not in posture for decision.

OWCP's procedures provide that cases should be administratively combined when a new injury is reported for an employee who previously filed a claim for a similar injury and further indicates that the cases should be administratively combined as soon as the need to do so becomes apparent.⁴

Herein, appellant's claim under OWCP File No. xxxxxx758 involves an emotional condition, alleging that she developed stress in part due to an exacerbation of the physical disabilities stemming from the accepted bilateral carpal tunnel syndrome and left shoulder impingement under OWCP File Nos. xxxxxx912 and xxxxxx867. Therefore, for full and fair

² The Board notes that appellant filed a prior claim for a work-related injury, under OWCP File No. xxxxxx912. See *infra* note 3.

³ OWCP's hearing representative indicated that in 2002 appellant filed a claim for bilateral hand pain, which was accepted for bilateral carpal tunnel syndrome under OWCP File No. xxxxxx912. Appellant underwent a right carpal tunnel release in 2002. In 2012 OWCP expanded the acceptance of her claim to include a left shoulder pathology and a left carpal tunnel release was performed that year. The hearing representative also referenced that in July 2017 appellant filed a Form CA-2 for a left shoulder impairment, to which OWCP assigned OWCP File No. xxxxxx867. OWCP administratively combined OWCP File Nos. xxxxxx867 and xxxxxx912, with the latter serving as the master file.

⁴ Federal (FECA) Procedure Manual, Part 2-- Claims, *Doubling Case Files*, Chapter 2.400.8(c)(1) (February 2000); see *Order Remanding Case, S.W.*, Docket No. 20-0008 (issued March 4, 2022); *Order Remanding Case, R.R.*, Docket No. 20-0911 (issued October 30, 2020); *Raymond W. Thomas*, Docket No. 01-545 (issued June 25, 2002).

adjudication, this case must be remanded to OWCP to administratively combine OWCP File Nos. xxxxxx758, xxxxxx912, and xxxxxx867. This will allow OWCP to consider all of the relevant claim files and accompanying evidence in developing appellant's current compensation claim. Following this and other such further development as deemed necessary, OWCP shall issue *de novo* merit decisions regarding her emotional condition claim.

IT IS HEREBY ORDERED THAT the April 28, 2021 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: August 8, 2022
Washington, DC

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

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

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board