

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

D.ELORES BELLOWS, Appellant)	
)	
and)	Docket Nos. 20-1393 &
)	22-0390
U. S. POSTAL SERVICE, POST OFFICE,)	Issued: February 3, 2022
Coppell, TX, 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
VALERIE D. EVANS-HARRELL, Alternate Judge

On July 7, 2020 appellant filed a timely appeal from a May 4, 2020 merit decision of the Office of Workers' Compensation Programs (OWCP) under OWCP File No. xxxxxx146. The Clerk of the Appellate Boards docketed the appeal as No. 20-1393. Also on July 7, 2020 appellant filed a timely appeal from an April 9, 2020 merit decision of the OWCP under OWCP File No. xxxxxx791. The Clerk of the Appellate Boards docketed the appeal as No. 22-0390.

On September 18, 2018 appellant, then a 60-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that on September 11, 2018 she sustained multiple injuries while in the performance of duty. In a second Form CA-1 dated September 30, 2018, she explained that she was struck by a postal box and fell to the floor on her right side, causing low back, bilateral hip, and lower extremity pain. OWCP assigned that claim OWCP File No. xxxxxx146. By decision dated November 9, 2018 OWCP accepted the claim in OWCP File No. xxxxxx146 for sprain of ligaments of lumbar spine, sprain of other parts of lumbar spine and pelvis, right hip sprain, left hip strain, lumbar radiculopathy, contusion of lower back and pelvis, and displaced fracture of distal phalanx of the right great toe. Appellant submitted periodic medical reports and physical therapy treatment notes through October 31, 2019.

On June 10, 2019 appellant filed another CA-1 alleging that on May 27, 2019 she sustained bilateral knee conditions when she tripped over a hook and fell on both knees and her right arm

while in the performance of duty. OWCP assigned that claim OWCP File No. xxxxxx791. By decision dated July 16, 2019 OWCP accepted the claim in OWCP File No. xxxxxx791 for bilateral knee sprain and tear of the medial meniscus of the left knee.

On December 15, 2019 appellant filed claims for compensation (Form CA-7) in OWCP File No. xxxxxx146 claiming disability from work for the periods November 23 through 28, 2019, and November 30 through December 5, 2019. In support of her claims, she provided reports dated from November 25 through December 10, 2019 by Dr. Ronnie D. Shade, a Board-certified orthopedic surgeon, noting a May 27, 2019 employment injury where appellant's left leg gave way, causing her to fall. Dr. Shade diagnosed a lumbar ligamentous sprain, sprain of pelvis and coccyx, bilateral hip sprains, lumbosacral radiculopathy, contusions of the pelvis, coccyx, and lumbar region, fracture of the distal proximal phalanx of the right great toe, and mild compression fractures of L1 and L4. He held appellant off work from November 25, 2019 through January 8, 2020.

In a letter dated December 23, 2019, OWCP advised appellant that it could not pay wage-loss compensation for the claimed period under OWCP File No. xxxxxx146, as she had been paid wage-loss compensation for the same period under another case, OWCP File No. xxxxxx791. Therefore, the CA-7 forms submitted under OWCP File No. xxxxxx146 "will be coded as non-payable as this would be considered dual compensation."

Appellant subsequently filed CA-7 forms in OWCP File No. xxxxxx146 for disability from work for the period December 7, 2019 through February 28, 2020. She provided additional reports by Dr. Shade holding her off work from January 9 through March 16, 2020 due to difficulty with prolonged standing, walking, sitting, bending, squatting, and kneeling.

In a development letter dated February 27, 2020 in OWCP File No. xxxxxx146, OWCP requested additional medical evidence to support her claims for wage-loss compensation, commencing November 23, 2019. OWCP indicated that it received notification that appellant returned to work full duty "on another case" on November 5, 2019 due to a knee injury and stopped working on November 19, 2019. It afforded her 30 days to submit the necessary evidence. In response, appellant provided a March 3, 2020 report by Dr. Shade explaining that he erred by inadvertently releasing her to work on November 5, 2019. Dr. Shade opined that appellant remained disabled from work because of her lumbar, pelvis, and bilateral hip symptoms.

By decision dated March 6, 2020 in OWCP File No. xxxxxx791, OWCP issued a preliminary overpayment determination finding that appellant was overpaid wage-loss benefits for the period November 5, 2019 through February 1, 2020 in the amount of \$8,704.82. OWCP further found that appellant returned to part-time work for on November 5, 2019, and that she concurrently received wages from the employing establishment and FECA wage-loss compensation through February 1, 2020. OWCP finalized the overpayment determination on April 9, 2020.

By decision dated May 4, 2020 in OWCP File No. xxxxxx146, OWCP denied appellant's claims for disability from work commencing November 23, 2019 as "payment of compensation for the disability claimed cannot be authorized because you were previously compensated on

another case for time loss during the same period claimed.” It further found that the medical evidence of record failed to support disability for work for the claimed period.

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.¹ For example, if a new injury 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.²

As the claims in OWCP File Nos. xxxxxx146 and xxxxxx791 both involve the lower extremities, and as OWCP’s decisions regarding the claimed periods of disability in OWCP File No. xxxxxx146 and the overpayment in OWCP File No. xxxxxx791 require a review of both claim files for full and fair adjudication, OWCP should have administratively combined these claims prior to issuing the April 9 and May 4, 2020 decisions.³

Accordingly, the Board will remand the case to OWCP to administratively combine OWCP File Nos. xxxxxx146 and xxxxxx791. Following this and other such further development as deemed necessary, OWCP shall issue *de novo* decisions relative to disability and overpayment.

¹ *F.J.*, Docket No. 19-1918 (issued November 30, 2020); *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).

² *Id.*

³ *See L.R.*, Docket No. 20-0340 (issued April 16, 2021) (OWCP should have administratively combined the claims prior to finding an overpayment of compensation where the correct payment of compensation benefits required a review of both claims).

IT IS HEREBY ORDERED THAT the April 9 and May 4, 2020 decisions of the Office of Workers' Compensation Programs in OWCP File Nos. xxxxxx791 and xxxxxx146, respectively, are set aside and the cases are remanded for further proceedings consistent with this order of the Board.

Issued: February 3, 2022
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