

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

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<b>K.B., Appellant</b>	)	
	)	
<b>and</b>	)	<b>Docket Nos. 21-1248 and 22-</b>
	)	<b>0171</b>
<b>U.S. POSTAL SERVICE, POST OFFICE,</b>	)	<b>Issued: March 11, 2022</b>
<b>Detroit, MI, Employer</b>	)	
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*Appearances:*  
Alan J. Shapiro, Esq. for the appellant<sup>1</sup>  
Office of Solicitor, for the Director

*Case Submitted on the Record*

**ORDER REMANDING CASE**

Before:  
ALEC J. KOROMILAS, Chief Judge  
PATRICIA H. FITZGERALD, Alternate Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

On August 17, 2021 appellant, through counsel, filed a timely appeal from a July 26, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP) under OWCP File No. xxxxxx905. The Clerk of the Appellate Boards docketed the appeal as No. 21-1248. On November 15, 2021 appellant, through counsel, filed a timely appeal from an October 5, 2021 merit decision of OWCP under OWCP File No. xxxxxx284. The Clerk of the Appellate Boards docketed the appeal as No. 22-0171.

On July 20, 2020 appellant, then a 44-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on July 9, 2020 she experienced a left shoulder muscle strain when attempting to stop the contents from falling out of a broken 50-pound package while in the performance of duty. She stopped work on July 10, 2020. OWCP assigned that claim OWCP File No. xxxxxx905.

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<sup>1</sup> 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 an 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.

Appellant had previously filed an October 10, 2019 notice of recurrence (Form CA-2a) alleging that on August 15, 2019 she sustained a recurrence of her previously accepted medical conditions when she injured her left shoulder lifting a heavy package while in the performance of duty.<sup>2</sup> She asserted that, upon returning to work following her previously accepted February 22, 2010 employment injury, she continued to work with ongoing back and shoulder pain related to her accepted medical conditions and that on August 15, 2019 she experienced a sharp shooting pain in her left shoulder radiating into her neck when she picked up a heavy package. OWCP subsequently converted appellant's recurrence claim under OWCP File No. xxxxxx560 to a new traumatic injury claim for a left shoulder condition assigned OWCP File No. xxxxxx284. Appellant did not stop work.

By decisions dated December 3, 2019, March 18 and September 16, 2020, and October 5, 2021, OWCP denied appellant's October 10, 2019 traumatic injury claim under OWCP File No. xxxxxx284, finding that the evidence of record was insufficient to establish causal relationship between her diagnosed left shoulder condition and the accepted August 15, 2019 employment incident.

By decision dated January 12, 2021, OWCP denied appellant's traumatic injury claim under OWCP File No. xxxxxx905, finding that the medical evidence of record was insufficient to establish that her left shoulder condition was causally related to the accepted July 9, 2020 employment incident. It found, therefore, that she had not met the requirements to establish an injury or medical condition causally related to the accepted employment incident.

On January 26, 2021 appellant, through counsel, timely requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review with regard to the denial of her claim under OWCP File No. xxxxxx905.

By decision dated July 26, 2021, OWCP's hearing representative affirmed the January 12, 2021 decision, noting that appellant had another traumatic injury claim under OWCP File No. xxxxxx284 and referenced a January 22, 2021 medical report from Dr. Sami E. Moufawad, a spine and pain medicine and physical medicine and rehabilitation specialist, that was submitted in support of that other claim.

The Board, having duly considered this matter, 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 files. 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. has filed separate traumatic injury claims for left shoulder conditions under OWCP File Nos. xxxxxx905 and xxxxxx284. The Board further notes that, in OWCP's July 20, 2021 decision in OWCP File No. xxxxxx905, the hearing representative referenced her claim under OWCP File No. xxxxxx284. Therefore, for full and fair adjudication, the cases must be remanded to OWCP to administratively combine OWCP File

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<sup>2</sup> Appellant's recurrence claim was filed in relation to OWCP File No. xxxxxx560, which was a prior claim for a February 22, 2020 traumatic injury accepted for a contusion of chest and cervical strain.

Nos. xxxxxx905 and xxxxxx284, along with any other of appellant's relevant claim files, so that it can consider all relevant claim files and accompanying evidence in adjudicating appellant's traumatic injury claims.

Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

**IT IS HEREBY ORDERED THAT** the July 26 and October 5, 2021 decisions of the Office of Workers' Compensation Programs are set aside and the case is remanded for further proceedings consistent with this order of the Board.

Issued: March 11, 2022  
Washington, DC

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

Patricia H. Fitzgerald, Alternate Judge  
Employees' Compensation Appeals Board

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