

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

A.W., Appellant)	
)	
and)	Docket No. 20-1151
)	Issued: November 28, 2022
U.S. POSTAL SERVICE, PROCESSING & DISTRIBUTION CENTER, Chicago, IL,)	
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
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge

On May 4, 2020 appellant filed a timely appeal from a March 23, 2020 merit decision of the Office of Workers' Compensation Programs (OWCP).¹ The Clerk of the Appellate Boards assigned Docket No. 20-1151.²

On August 5, 2019 appellant, then a 54-year-old mail handler, filed an occupational disease claim (Form CA-2) alleging that she aggravated her conditions of left-sided plantar fibromatosis and chronic lumbar strain with lumbar disc degeneration due to factors of her federal employment, including walking or standing on hard surfaces and sitting for prolonged periods irritated her. She

¹ Appellant also filed an untimely appeal of a June 13, 2019 merit decision in OWCP Master File No. xxxxxx346, denying her claim for recurrence of disability. As more than 180 days elapsed from OWCP's last merit decision in Master File No. xxxxxx346, dated June 13, 2019, to the filing of this appeal, pursuant to the Federal Employees' Compensation Act (FECA), 5 U.S.C. § 8101 *et seq.*, and 20 C.F.R. §§ 501.2(c) and 501.3, the Board lacks jurisdiction over the merits of that claim.

² The Board notes that appellant submitted additional evidence on appeal. 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.*

indicated that she first became aware of her condition on May 17, 2010 and realized its relation to her federal employment on May 1, 2019. In an accompanying statement, appellant noted that she had been previously diagnosed with plantar fasciitis and sciatica due to her work duties of walking and standing on hard surfaces and pushing and pulling heavy mail carts.³

In an August 21, 2019 development letter, OWCP advised appellant of the deficiencies of her claim. It requested additional factual and medical evidence and provided a questionnaire for her completion. OWCP afforded appellant 30 days to respond. No additional evidence was received.

By decision dated October 22, 2019, OWCP denied appellant's occupational disease claim finding that the medical evidence of record was insufficient to establish causal relationship between her diagnosed conditions and the accepted factors of her federal employment.

On November 15, 2019 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.

By decision dated March 23, 2020, OWCP's hearing representative affirmed the October 22, 2019 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 cross-referencing between files and when two or more injuries occur to the same part of the body.⁴ Herein, appellant's claims under OWCP File Nos. xxxxxx631, xxxxxx346, and xxxxxx296 all involve injuries to appellant's left foot and/or back. For a full and fair adjudication, the case must be remanded to OWCP to administratively combine the current case record with OWCP File Nos. xxxxxx346 and xxxxxx296. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

³ Appellant has an accepted claim for left plantar fibromatosis and degeneration of lumbar disc under OWCP File No. xxxxxx346 and an accepted claim for lumbar degenerative disc disease and sciatica under OWCP File No. xxxxxx296. These claims have been administratively combined, with the former serving as the master file.

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000).

IT IS HEREBY ORDERED THAT the March 23, 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: November 28, 2022
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board