

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

G.S., Appellant)	
)	
and)	Docket No. 22-1002
)	Issued: November 28, 2022
U.S. POSTAL SERVICE, POST OFFICE,)	
Wauwatosa, WI, Employer)	
)	

Appearances: *Case Submitted on the Record*
Larrissa Ann Parde, for the appellant¹
Office of Solicitor, for the Director

ORDER REMANDING CASE

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

On June 22, 2022 appellant, through his representative, filed a timely appeal from an April 5, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 22-1002.

On July 27, 2015 appellant, then a 51-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on July 21, 2015 he developed sciatica and herniated L4 and L5 discs when he felt pain in his left hip and going down his left leg when delivering mail while in the performance of duty.

The employing establishment controverted the claim, noting that appellant had previously filed the following claims for low back injuries: a claim under OWCP File No. xxxxxx517 for a

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 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.

July 19, 2013 low back injury which was denied; and a claim under OWCP File No. xxxxxx970 for a July 21, 2014 lower back injury, which was accepted for lumbar sprain.

On August 25, 2015 appellant underwent a lumbar laminotomy L4-5 with excision for a preoperative diagnosis of L4-5 left lateral foraminal disc herniation.

By decision dated December 22, 2015, OWCP denied appellant's claim, finding that he had not established that the diagnosed medical condition was causally related to the accepted July 21, 2015 employment incident.

Appellant thereafter requested reconsideration and continued to submit new evidence. By decisions dated July 11, 2016, May 1, 2017, August 23, 2018, September 12, 2019, September 11 and December 4, 2020 OWCP denied modification.

On December 6, 2021 appellant again requested reconsideration. By decision dated March 9, 2022, OWCP denied appellant's request for reconsideration of the merits of the claim.

By decision dated April 5, 2022, OWCP denied modification. It noted that, under OWCP File No. xxxxxx903, OWCP accepted an L4-5 disc herniation due to a July 29, 2020 traumatic injury. OWCP noted medical evidence, which discussed appellant's lumbar disc herniation diagnostic findings as of July 2015 and related that the medical evidence did not explain, with medical rationale, the findings from July 21, 2015, which differentiated from the findings which established the July 29, 2020 lumbar disc injury.

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 depends on cross-referencing between files and when two or more injuries occur to the same part of the body.² As appellant's claims under OWCP File Nos. xxxxxx879, xxxxxx903, xxxxxx517 and xxxxxx970 all involve low back injuries, these claims should be administratively combined for a full and fair adjudication.³ This will allow OWCP to consider all relevant claim files and accompanying evidence in developing this claim.

Accordingly, the Board will remand the case to OWCP to administratively combine OWCP File Nos. xxxxxx879, xxxxxx903, xxxxxx517, and xxxxxx970. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* merit decision.

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

³ *K.G.*, Docket No. 21-0068 (issued July 29, 2022); *D.J.*, Docket No. 20-0997 (issued November 20, 2020); *S.D.*, Docket No. 19-0590 (issued August 28, 2020).

IT IS HEREBY ORDERED THAT April 5, 2022 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

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