

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

T.B., Appellant	)	
	)	
and	)	<b>Docket No. 22-0360</b>
	)	<b>Issued: October 27, 2022</b>
<b>DEPARTMENT OF THE ARMY, ARMY</b>	)	
<b>MEDICAL COMMAND, Fort Hood, TX,</b>	)	
<b>Employer</b>	)	
	)	

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**ORDER REMANDING CASE**

Before:  
JANICE B. ASKIN, Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge  
JAMES D. MCGINLEY, Alternate Judge

On January 12, 2022 appellant filed a timely appeal from a December 16, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 22-0360.

On March 22, 2018 appellant, then a 57-year-old phlebotomist, filed a traumatic injury claim (Form CA-1) alleging that on March 19, 2018, she injured her back, left knee, and left shoulder while in the performance of duty when holding up a patient that had become unconscious while standing. OWCP assigned the claim OWCP File No. xxxxxx670.

On April 30, 2018 OWCP accepted the claim for superior glenoid labrum lesion of right shoulder, strain of muscle(s) and tendon(s) of the rotator cuff of right shoulder, lumbar radiculopathy, and other specific joint derangements of right shoulder.

On December 30, 2019 appellant filed an occupational disease claim (Form CA-2) alleging that repetitive motion during phlebotomy procedures on or before February 8, 2019 caused numbness and tingling of the fourth and fifth fingers. OWCP assigned the claim OWCP File No. xxxxxx581. On March 25, 2020 it accepted the claim for an ulnar nerve lesion of the right upper

extremity. On May 13, 2020 OWCP expanded acceptance of the claim to include an ulnar nerve lesion of the left upper extremity.

On February 1, 2021 OWCP administratively combined OWCP File No. xxxxxx581 and OWCP File No. xxxxxx670, with the latter serving as the master file.

On September 22, 2021 under OWCP File No. xxxxxx670, appellant filed a series of claims for compensation (Form CA-7) for intermittent periods of wage loss from May 4 through August 31, 2021. She submitted time analysis forms (Form CA-7a) noting specific periods of compensation claimed, as follows: 4 hours leave without pay (LWOP) on May 4, 5, 6, and 7, 2021; 40 hours LWOP from May 10 through 14, 2021; 20 hours LWOP from May 17 through 21, 2021; 20 hours LWOP on May 24, 2021; 16 hours LWOP from May 31 through June 4, 2021; 40 hours LWOP and 11 hours leave from June 7 through 18, 2021; 41.30 hours LWOP and 12 hours leave from June 21 through 30, 2021; 8 hours LWOP on July 1 and 2, 2021; 46 hours LWOP and 4 hours leave from July 5 through 16, 2021; 43 hours LWOP and 4 hours leave from July 19 through July 30, 2021; 48 hours LWOP from August 16 through 31, 2021.

On September 23, 2021 OWCP received September 2, 2021 reports by David Zolezzi, a physician assistant, and a September 2, 2021 duty status report (Form CA-17) containing an illegible signature.

On September 24, 2021 appellant filed a Form CA-7 for the period August 2 through 13, 2021. In an accompanying Form CA-7a, the employing establishment noted that appellant used 41 hours LWOP and 16 hours of leave for the claimed period.

On October 1, 2021 OWCP received a September 20, 2021 report by Dr. Kyriakos Tsalamandris, Board-certified in emergency medicine, diagnosing bilateral ulnar nerve lesions.

In a development letter dated October 1, 2021, OWCP informed appellant that additional evidence was needed to establish her September 22, 2021 claims for the period May 4, 2021 and continuing. It noted that unspecified additional evidence was required to establish disability for the specific period May 4 through June 6, 2021. Additionally, OWCP advised appellant to submit corrected Form CA-7a documents as there was conflicting information regarding the dates and hours claimed. OWCP afforded appellant 30 days to respond.

In response, on October 5, 2021, OWCP received an October 16, 2020 report by Dr. Burris discussing bilateral shoulder conditions, and November 5, 2020 documents related to the right shoulder surgery.

In an October 26, 2021 referral form, Dr. Tsalamandris prescribed physical therapy.

In a November 22, 2021 Form CA-7a, the employing establishment noted that appellant claimed compensation for the following work absences for the period August 16 through 30, 2021: 4 hours on August 16<sup>th</sup>; 4.3 hours on August 17<sup>th</sup>; 4 hours on August 18<sup>th</sup>; 4.3 hours on August 19<sup>th</sup>; 4 hours on August 20<sup>th</sup>; 4 hours on August 23<sup>rd</sup>; 4 hours on August 24<sup>th</sup>; 4 hours on August 25<sup>th</sup>; 4 hours on August 26<sup>th</sup>; 4 hours on August 27<sup>th</sup>; and 4 hours on August 30<sup>th</sup>.

In a December 2, 2021 chart note and duty status report (Form CA-17), Dr. Tsalamandris diagnosed a right supraspinatus strain, derangement of the right shoulder, a right superior glenoid labrum sprain, and lumbar radiculopathy.

By decision dated December 16, 2021, OWCP accepted appellant's claim for the period August 16 through 30, 2021, but denied her claim for compensation for the period May 4 through August 13, 2021 as she had not submitted corrected Form CA-7a forms as requested in the October 1, 2021 development letter. It noted that the decision had been based on "all evidence of record."

The Board, having duly considered this matter, finds that this case is not in posture for decision.

OWCP did not make findings regarding the medical evidence submitted in support of appellant's claims for wage-loss compensation.<sup>1</sup> It summarily denied her claims without complying with the review requirements of FECA and its implementing regulations.<sup>2</sup> Section 8124(a) of FECA provides that OWCP shall determine and make a finding of fact and make an award for or against payment of compensation.<sup>3</sup> Its regulations at 20 C.F.R. § 10.126 provide that the decision of the Director of OWCP shall contain findings of fact and a statement of reasons.<sup>4</sup> As well, OWCP's procedures provide that the reasoning behind OWCP's evaluation should be clear enough for the reader to understand the precise defect of the claim and the kind of evidence which would overcome it.<sup>5</sup>

In denying appellant's claims for compensation OWCP did not identify the specific defects in the series of Form CA-7a documents submitted on September 22, 2021 that rendered them insufficient to establish appellant's claims.

The Board will therefore set aside OWCP's December 16, 2021 decision and remand the case for an appropriate decision on appellant's claims for wage-loss compensation, which provides findings of fact and detailed reasons for accepting or rejecting the claims.<sup>6</sup> Accordingly,

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<sup>1</sup> See *Order Remanding Case, T.E.*, Docket No. 21-0843 (issued December 6, 2021); see *Order Remanding Case, R.C.*, Docket No. 20-1671 (issued May 6, 2021); *Order Remanding Case, J.K.*, Docket No. 20-0556 (issued August 13, 2020); *Order Remanding Case, C.D.*, Docket No. 20-0450 (issued August 13, 2020); *Order Remanding Case, T.B.*, Docket No. 20-0426 (issued July 27, 2020).

<sup>2</sup> See *C.G.*, Docket No. 20-0051 (issued June 29, 2020); *T.P.*, Docket No. 19-1533 (issued April 30, 2020); see also 20 C.F.R. § 10.607(b).

<sup>3</sup> 5 U.S.C. § 8124(a).

<sup>4</sup> 20 C.F.R. § 10.126.

<sup>5</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.5 (February 2013).

<sup>6</sup> 5 U.S.C. § 8124(a). *Id.* at Chapter 2.1401.5b (November 2012).

**IT IS HEREBY ORDERED THAT** the December 16, 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: October 27, 2022  
Washington, DC

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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

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