

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

| | | |
|------------------------------------|---|-------------------------------|
| J.L., Appellant |) | |
| |) | |
| and |) | Docket No. 21-0958 |
| |) | Issued: April 26, 2023 |
| U.S. POSTAL SERVICE, GRAND PRAIRIE |) | |
| WESTCHESTER STATION, |) | |
| Grand Prairie, TX, Employer |) | |

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

Case Submitted on the Record

ORDER REMANDING CASE

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

On June 10, 2021 appellant filed a timely appeal from an April 14, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 21-0958.

On March 31, 2020 appellant, then a 53-year-old rural carrier, filed an occupational disease claim (Form CA-2) alleging she developed back pain in the lumbar and thoracic regions of her spine due to factors of her federal employment, including repetitive motions involved in delivering mail.¹ She explained that, when she replicated the movements of servicing mailboxes, her pain would instantly intensify. Appellant noted that she first became aware of her condition on February 20, 2018 and realized its relation to her federal employment on March 10, 2020. She stopped work on February 20, 2018 and returned to work on April 20, 2020.

¹ OWCP assigned the present claim OWCP File No. xxxxxx638. Appellant has a previously-accepted traumatic injury claim for a March 27, 2015 lumbar sprain and contusion of the right shoulder and upper arm under OWCP File No. xxxxxx627. OWCP has not administratively combined appellant's claims.

By decision dated May 20, 2020, OWCP denied appellant's occupational disease claim, finding that the medical evidence of record was insufficient to establish that her diagnosed conditions were casually related to the accepted factors of her federal employment.

On November 1, 2020, appellant requested review of the written record by a representative of OWCP's Branch of Hearings and Review.

By decision dated November 16, 2020, OWCP denied appellant's request for review of the written record, finding that it was not made within 30 days of its May 20, 2020 decision. It further exercised discretion and determined that the issue in this case could equally well be addressed through a request for reconsideration before OWCP, along with the submission of new evidence.

On December 29, 2020, appellant requested reconsideration.

By decision dated April 14, 2021, OWCP denied modification of its May 20, 2020 merit decision, finding that the evidence of record had not established that appellant's diagnosed conditions were causally related to the accepted factors of her federal employment.

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 of the issues depends on frequent cross-referencing between files.² 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.³ Herein, appellant's claim under OWCP File No. xxxxxx627 also involved injuries to the lumbar spine. Therefore, for a full and fair adjudication, this case must be remanded for OWCP to administratively combine OWCP File Nos. xxxxxx638 and xxxxxx627, so it may consider all relevant claim files and accompanying evidence in adjudicating appellant's current traumatic injury claim.⁴ Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

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

³ *Id.*; *M.L.*, Docket No. 20-1176 (issued April 29, 2021); *L.M.*, Docket No. 19-1490 (issued January 29, 2020); *L.H.*, Docket No 18-1777 (issued July 2, 2019).

⁴ *Supra* note 2 at Chapter 2.400.8c(1); *W.D.*, Docket No. 19-0961 (issued March 31, 2021); *L.P.*, Docket Nos. 18-1558, 18-1568 (issued June 21, 2019).

IS HEREBY ORDERED THAT the April 14, 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: April 26, 2023
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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