

¹ Pursuant to the Board's *Rules of Procedure*, an appeal is considered filed when received by the Clerk of the Appellate Boards. 20 C.F.R. § 501.3(f). However, when the date of receipt would result in a loss of appeal rights, the appeal will be considered to have been filed as of the date of the U.S. Postal Service postmark or other carriers date markings. *Id.* at § 501.3(f)(1). The 180th day following the December 20, 2022 decision was June 18, 2023. As this fell on a Sunday, and the following day, Monday, June 19, 2023, was a Federal holiday, appellant had until the next business day, Tuesday, June 20, 2023 to file the appeal. 20 C.F.R. § 501.3(f)(2). Because using June 22, 2023, the date the appeal was received by the Clerk of the Appellate Boards, would result in the loss of appeal rights, the date of the postmark is considered the date of filing. The date of the U.S. Postal Service postmark is Tuesday June 20, 2023, rendering the appeal timely filed. *See* 20 C.F.R. § 501.3(f)(1).

for sprain of the lumbar spine, bilateral knee and leg sprains, and thoracic or lumbosacral neuritis.² It paid wage-loss compensation on the supplemental rolls beginning October 2, 2009 and on the periodic rolls beginning December 20, 2009.

By decision dated December 20, 2022, OWCP terminated appellant's wage-loss compensation and medical benefits effective that date, based on the opinion Dr. Kevin White, a Board-certified orthopedic surgeon serving as an impartial medical examiner (IME).

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 case files and when two or more injuries occur to the same part of the body.³ 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.⁴ In the instant case, OWCP File No. xxxxxx145, appellant filed a traumatic injury claim for sprain of the lumbar spine and thoracic or lumbosacral neuritis. The Board notes that her prior claim under OWCP File No. xxxxxx769 also involved a claim for lumbosacral sprain. OWCP relied on the opinion of Dr. White, the IME, in justifying its termination decision. However, it had not administratively combined OWCP File Nos. xxxxxx145 and xxxxxx769.

Once OWCP accepts a claim and pays compensation, it has the burden of proof to justify termination or modification of benefits.⁵ As OWCP did not administratively combine the files prior to the termination, the Board finds that it failed to meet its burden of proof.

² OWCP assigned the present claim OWCP File No. xxxxxx145. Appellant has a previously-accepted December 19, 2008 traumatic injury claim for lumbosacral sprain and right shoulder strain under OWCP File No. xxxxxx769.

³ *Order Remanding Case, M.J.*, Docket No. 22-1357 (issued June 12, 2023); *Order Remanding Case, L.B.*, Docket No. 21-0241 (issued October 28, 2021); Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance & Management*, Chapter 2.400.8c (February 2000).

⁴ *Id.*

⁵ *D.G.*, Docket No. 19-1259 (issued January 29, 2020); *S.F.*, 59 ECAB 642 (2008); *Kelly Y. Simpson*, 57 ECAB 197 (2005); *Paul L. Stewart*, 54 ECAB 824 (2003).

IT IS HEREBY ORDERED THAT the December 20, 2022 decision of the Office of Workers' Compensation Programs is reversed.

Issued: December 4, 2023
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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