

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

\_\_\_\_\_ )  
**K.W., Appellant** )

**and** )

**U.S. POSTAL SERVICE, BEAR POST OFFICE,** )  
**Bear, DE, Employer** )  
\_\_\_\_\_ )

**Docket No. 22-0951**  
**Issued: January 26, 2023**

*Appearances:*

*Thomas R. Uliase, Esq.*, for the appellant<sup>1</sup>  
*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 6, 2022 appellant, through counsel, filed a timely appeal from a December 29, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP).<sup>2</sup> The Clerk of the Appellate Boards docketed the appeal as Docket No. 22-0951.

On May 20, 2020 appellant, then a 56-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on May 16, 2020 she injured her back and left leg when pulling a large

---

<sup>1</sup> 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 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.

<sup>2</sup> The Board notes that, following the December 29, 2021 decision, OWCP received additional evidence. 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.*

parcel from her truck and carrying it into a building while in the performance of duty. She stopped work on May 16, 2020.

By decision dated July 1, 2020, OWCP denied appellant's traumatic injury claim. It accepted that the May 16, 2020 employment incident occurred, as alleged, but denied the claim finding that the medical evidence did not establish causal relationship between the accepted May 16, 2020 employment incident and her diagnosed low back conditions.

On June 22, 2021 appellant requested reconsideration of the July 1, 2020 decision and submitted additional evidence.

By decision dated December 29, 2021, OWCP denied modification of its prior decision.

The Board has duly considered the matter and concludes 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.<sup>3</sup> 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.<sup>4</sup>

Herein, appellant had prior traumatic injury claims for low back injuries, assigned OWCP File No. xxxxx2486, OWCP File No. xxxxxx923, and OWCP File No. xxxxxx838. She subsequently filed a May 16, 2020 traumatic injury claim for the same region of the body, assigned OWCP File No. xxxxx4486, which is the claim presently before the Board. Therefore, for a full and fair adjudication, the case must be returned to OWCP to administratively combine the current case record, OWCP File No. xxxxxx4486, with OWCP File Nos. xxxxxx2486, xxxxxx923, and xxxxxx838. Following this and such further development as OWCP deems necessary, it shall issue a *de novo* decision. Accordingly,

---

<sup>3</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8c (February 2000).

<sup>4</sup> *Id.*; *A.D.*, Docket No. 22-0147 (issued July 1, 2022); *S.G.*, Docket No. 21-0396 (issued September 27, 2021); *R.L.*, Docket No. 20-0901 (issued July 27, 2021); *M.E.*, Docket No. 21-0094 (issued May 27, 2021); *L.M.*, Docket No. 19-1490 (issued January 29, 2020); *L.H.*, Docket No. 18-1777 (issued July 2, 2019).

**IT IS HEREBY ORDERED THAT** the December 29, 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: January 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