United States Department of Labor Employees' Compensation Appeals Board

L.F., Appellant	·))
and) Docket No. 22-1032) Issued: January 18, 2023
DEPARTMENT OF VETERANS AFFAIRS, MINNEAPOLIS VA MEDICAL CENTER,)
Minneapolis, MN, Employer)
Appearances: Appellant, pro se	Case Submitted on the Record

ORDER REMANDING CASE

Office of Solicitor, for the Director

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
JAMES D. McGINLEY, Alternate Judge

On June 27, 2022 appellant filed a timely appeal from a June 9, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 22-1032.

On January 7, 2022 appellant, then a 66-year-old food service worker, filed an occupational disease claim (Form CA-2) alleging that on January 4, 2022 due to factors of his federal employment, he sustained a back injury or reinjured his back while pushing heavy food carts, which were difficult to move, bending, twisting, and reaching while loading and unloading food carts, and placing dishes in a dishwasher. He noted that he first became aware of his condition and its relationship to his federal employment on January 4, 2022. Appellant stopped work on January 4, 2022. OWCP assigned this claim OWCP File No. xxxxxxx284.

Appellant has prior back injury claims. OWCP File No. xxxxxxx908 is an accepted April 5, 2006 lumbar sprain and strain; OWCP File No. xxxxxxx651 is a short form closure for a December 8, 2006 back injury; OWCP File No. xxxxxxx033 is an accepted February 24, 2016 sprain of ligaments of lumbar spine; OWCP File No. xxxxxx644 is an accepted May 7, 2019 temporary aggravation of other intervertebral disc degeneration, lumbar region, left thigh strain,

other intervertebral disc degeneration, lumbar region, and lumbar radiculopathy; and OWCP File No. xxxxxx728 is an unaccepted October 27, 2021 lumbar injury.

By decision dated February 17, 2022, OWCP denied the claim as the evidence did not establish that the employment incident occurred on January 4, 2022 as alleged. It further found that the employing establishment provided evidence that he had not pushed any carts on January 4, 2022, but that he was in training for his light-duty position. OWCP also denied the claim, in part, as it had denied a prior claim under OWCP File No. xxxxxxx728 for an October 27, 2021 traumatic lumbar injury with left-sided radiculopathy, which appellant had attributed to pushing food carts while in the performance of duty.

On March 14, 2022 appellant requested reconsideration.

By decision dated June 9, 2022, OWCP denied modification of the February 17, 2022 decision.

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 files. 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, or if overlapping periods of disability are alleged, doubling is required. Herein, appellant has a claim for a back injury, which was assigned OWCP File No. xxxxxx284. She also has claims for back injuries in OWCP File Nos. xxxxxx908, xxxxxx651, xxxxxx033, xxxxxx644, and xxxxxx728.

For a full and fair adjudication, the case must be remanded to OWCP to administratively combine the current case record, OWCP File No. xxxxxx284, with OWCP File Nos. xxxxxx908, xxxxxx651,xxxxxx033,xxxxxx644, and xxxxxx728. On remand, OWCP shall review all relevant evidence to determine whether appellant has established an injury, occupational or traumatic, in the performance of duty. Following this and other such further development as deemed necessary, it shall issue a *de novo* decision. Accordingly,

¹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000).

² Id.; 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 June 9, 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: January 18, 2023 Washington, DC

> Alec J. Koromilas, Chief Judge Employees' Compensation Appeals Board

> Janice B. Askin, Judge Employees' Compensation Appeals Board

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