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

F.L., Appellant	) )	
and	)	Docket No. 23-0070
U.S. POSTAL SERVICE, POST OFFICE, Hartford, CT, Employer	)	Issued: January 17, 2023
Appearances: Appellant, pro se Office of Solicitor, for the Director	)	Case Submitted on the Record

## ORDER REMANDING CASE

## Before:

ALEC J. KOROMILAS, Chief Judge PATRICIA H. FITZGERALD, Deputy Chief Judge VALERIE D. EVANS-HARRELL, Alternate Judge

On October 20, 2022 appellant filed a timely appeal from an August 18, 2022 merit decision and August 22 and October 3, 2022 nonmerit decisions of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as Docket No. 23-0070.

On July 7, 2022 appellant, then a 30-year-old city delivery specialist, filed an occupational disease claim (Form CA-2) alleging that she developed a disc injury which caused severe pain and discomfort in her right leg due to factors of her federal employment, including walking, lifting, climbing, and driving.<sup>1</sup> She noted that she first became aware of her condition on March 10, 2022 and realized its relation to her federal employment on May 17, 2022. Appellant stopped work on July 8, 2022.

In statements dated July 2 and August 18, 2022, appellant alleged that the present condition was a recurrence of her previously accepted traumatic injury under OWCP File No. xxxxxx539. She noted that she returned to work on October 9, 2021 and concluded therapy in December 2021.

<sup>&</sup>lt;sup>1</sup> OWCP assigned the present claim OWCP File No. xxxxxxx643. Appellant has a previously -accepted July 1, 2021 traumatic injury claim for a contusion of unspecified front wall of the thorax and a strain of muscle, fascia, and tendon at neck level under OWCP File No. xxxxxxx539. The claims have not been administratively combined by OWCP.

Appellant contends that, thereafter, her previously accepted injury was aggravated by her work duties, resulting in her present condition.

By decision dated August 18, 2022, OWCP denied appellant's occupational disease claim, finding that she had not submitted sufficient evidence to establish the implicated factors of her federal employment. Consequently, it found that she had not met the requirements to establish an injury as defined by FECA.

On August 19, 2022 appellant requested reconsideration of the August 18, 2022 decision and submitted additional evidence in support of her request.

By decision dated August 22, 2022, OWCP denied appellant's request for reconsideration of the merits of the claim, pursuant to 5 U.S.C. § 8128(a).

OWCP continued to receive evidence. In a medical report dated July 14, 2022, Dr. Kenneth Kramer, a Board-certified orthopedic surgeon, related that appellant had been under his care since September 7, 2021, for treatment of neck and back injuries she sustained in a motor vehicle accident on July 1, 2021 under OWCP File. No. xxxxxxx539. He noted that her lumbar symptoms increased with performing her regular work duties and, in his medical opinion, her present condition was caused by the accepted July 1, 2021 employment injury.

On September 16 and 28, 2022 appellant requested reconsideration of the August 18, 2022 decision. By decision dated October 3, 2022, OWCP denied her request for reconsideration of the merits of the claim, pursuant to 5 U.S.C. § 8128(a).

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>2</sup> Herein, OWCP referenced appellant's prior claim under OWCP File No. xxxxxxx539. Thus, for a full and fair adjudication, this case shall be returned to OWCP to administratively combine the current case record with OWCP File No. xxxxxxx539, so that it can consider all relevant claim files and accompanying evidence in adjudicating the present claim.<sup>3</sup>

Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

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

<sup>&</sup>lt;sup>3</sup> *Id.*, 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).

**IT IS HEREBY ORDERED THAT** the August 18, 22, and October 3, 2022 decisions of the Office of Workers' Compensation Programs are set aside and the case is remanded for further proceedings consistent with this order of the Board.

Issued: January 17, 2023 Washington, DC

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

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

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