

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

S.B., Appellant)	
)	
and)	Docket No. 21-0834
)	Issued: July 21, 2023
U.S. POSTAL SERVICE, POST OFFICE,)	
INDEPENDENCE ANNEX, Charlotte, NC,)	
Employer)	

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 May 11, 2021 appellant filed a timely appeal from January 29 and May 10, 2021 merit decisions of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 21-0834 to the appeal.

This case has previously been before the Board.¹ The facts and circumstances as set forth in the Board's prior order are incorporated herein by reference. The relevant facts are as follows.

On April 17, 2018 appellant, then a 40-year-old city carrier assistant, filed an occupational disease claim (Form CA-2) alleging an emotional condition causally related to factors of her federal employment. She noted that she first became aware of her condition on February 8, 2018 and realized its relation to factors of her federal employment on April 9, 2018.²

¹ *Order Remanding Case*, Docket No. 19-1937 (issued December 15, 2020).

² OWCP assigned the present claim OWCP File No. xxxxxx341. Appellant has other emotional condition claims before OWCP under OWCP File Nos. xxxxxx341, xxxxxx435, xxxxxx066, xxxxxx767, and xxxxxx368.

By decision dated September 11, 2019, OWCP denied the claim, finding that appellant had not established a compensable factor of employment.

Appellant appealed to the Board. By order dated December 15, 2020, the Board set aside OWCP's September 11, 2019 decision and remanded the case to OWCP to administratively combine OWCP File Nos. xxxxxx368, xxxxxx341, xxxxxx435, xxxxxx066, and xxxxxx767 as those files involved claims for an emotional condition and to issue a *de novo* decision regarding her emotional claim in OWCP File No. xxxxxx341 based on a review of the evidence from all of the consolidated OWCP files.

On remand OWCP administratively combined appellant's claims under OWCP File Nos. xxxxxx341, xxxxxx435, xxxxxx066, xxxxxx767, and xxxxxx368, with the latter serving as the master file.

Appellant subsequently submitted additional argument and evidence.

By *de novo* decision dated January 29, 2021, OWCP noted appellant's other emotional condition claims, but summarily denied the present claim without providing new findings.

On February 10, 2021 appellant requested reconsideration and submitted additional evidence.

By decision dated May 10, 2021, OWCP denied modification of its prior decision.

The Board, having duly considered the matter, finds that this case is not in posture for decision.

Section 8124(a) of FECA provides that OWCP shall determine and make a finding of fact and make an award for or against payment of compensation.³ Its regulations at 20 C.F.R. § 10.126 provide that the decision of the Director of OWCP shall contain findings of fact and a statement of reasons.⁴ Additionally, OWCP's procedures provide that the reasoning behind OWCP's evaluation should be clear enough for the reader to understand the precise defect of the claim and the kind of evidence which would overcome the defect.⁵

In its January 29, 2021 decision, OWCP listed the evidence received in the combined OWCP files, but in its basis for decision it summarily denied the claim, failing to make new findings or analyze the evidence to appellant's emotional condition claim in OWCP File No. xxxxxx341, as previously instructed by the Board. In its May 10, 2021 decision, it further noted that she had submitted "a plethora" of new evidence in support of her request for reconsideration, however, it did not make findings regarding all of this new evidence. As such, OWCP did not discharge its responsibility to set forth findings of fact and a clear statement of reasons explaining the disposition so that appellant could understand the basis for the decision. Based on the evidence

³ 5 U.S.C. § 8124(a).

⁴ 20 C.F.R. § 10.126.

⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.5 (February 2013).

of record, it should have made new findings and explained whether she sustained an emotional condition causally related to her accepted August 12, 2017 employment injury and/or factors of her federal employment.⁶

Accordingly, the Board will set aside OWCP's January 29 and May 10, 2021 decisions and remand the case for OWCP to review the evidence in all of appellant's consolidated emotional condition claims and make findings of fact and provide a statement of reasons for its decision, pursuant to the standards set forth in section 5 U.S.C. § 8124(a) and 20 C.F.R. § 10.126. After any further development deemed necessary, OWCP shall issue a *de novo* decision. Accordingly,

IT IS HEREBY ORDERED THAT the May 10 and January 29, 2021 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: July 21, 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

⁶ See C.A., Docket No. 20-1297 (issued March 18, 2021); N.D., Docket No. 20-0131 (issued September 11, 2020).