

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

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<b>L.Y., Appellant</b>	)	
	)	
<b>and</b>	)	<b>Docket No. 21-0344</b>
	)	<b>Issued: June 15, 2023</b>
<b>DEPARTMENT OF VETERANS AFFAIRS,</b>	)	
<b>SALEM VA MEDICAL CENTER, Salem, VA,</b>	)	
<b>Employer</b>	)	
_____	)	

*Appearances:*  
*Kelly Craig, Esq., for the appellant<sup>1</sup>*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
JANICE B. ASKIN, Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On January 4, 2021 appellant, through counsel, filed a timely appeal from a July 10, 2020 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>2</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

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<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> 5 U.S.C. § 8101 *et seq.*

## ISSUE

The issue is whether appellant has met her burden of proof to establish an emotional condition in the performance of duty, as alleged.

## FACTUAL HISTORY

On October 31, 2018 appellant, then a 63-year-old advanced medical support assistant, filed a traumatic injury claim (Form CA-1) alleging that on July 3, 2018 she experienced a flare-up of her post-traumatic stress disorder (PTSD)<sup>3</sup> when she was verbally attacked and harassed by a coworker who was upset about changes to his work schedule and duties, per management's instructions. On the reverse side of the claim form, the employing establishment acknowledged that appellant was in the performance of duty when the claimed injury occurred; but noted that she had previously declined an assignment relocation offer made prior to the date of injury. It further controverted the claim, contending that the incident involved a personal emotional reaction to administrative activities which was not reported until June 4, 2018, more than 30 days following date of injury. Appellant did not stop work.

In a development letter dated November 6, 2018, OWCP informed appellant that she submitted no evidence to establish that the claimed July 3, 2018 employment incident occurred, as alleged. It advised her of the type of factual and medical evidence necessary to establish her claim and attached a questionnaire for her completion. In a separate development letter of even date, OWCP requested that the employing establishment provide additional information, including comments for a knowledgeable supervisor regarding the accuracy of appellant's statement. It afforded both parties 30 days to submit the necessary evidence.

In a July 11, 2018 e-mail, J.W., appellant's coworker, reported that he overheard a conversation between appellant and S.T., a pulmonary technician, where he was using "very firm and a higher than average volume" to instruct her not to schedule him any more patients for the month of July. He described his tone as condescending and a form of harassment and bullying in the workplace.

In a July 12, 2018 e-mail, E.H., appellant's coworker, described a July 10, 2018 incident where S.T. was raising his voice and speaking at appellant in a confrontational manner. She asserted that appellant was following her supervisor's instructions for scheduling and that S.T. did not like this and believed that she was trying to keep him busy until his vacation. E.H. noted that the conversation made her uncomfortable as the tone of his voice was harassing, condescending and bullying. The next day, she noted that S.T. walked around the employing establishment with a cocky attitude and even told a patient that he "owned this place."

In a separate e-mail of even date, appellant recounted employment incidents on July 3 and 10, 2018 in which S.T. yelled at her over issues with pulmonary function test (PFT) scheduling. She informed him that she was given instructions to input the scheduling for July and

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<sup>3</sup> On December 8, 2016 appellant filed an occupational disease claim (Form CA-2) alleging that she developed PTSD due to factors of her federal employment under OWCP File No. xxxxxx726. On June 5, 2017 OWCP accepted her claim for chronic PTSD.

he responded by telling her to stop scheduling too many people on each day. S.T. slammed his schedule down on appellant's desk and asserted that she should not schedule any more appointments for July before he went on vacation. She reported feeling scared and experiencing shortness of breath with chest pains and shaking before she "blacked out" for an unknown amount of time. After the second incident on July 10, 2018 appellant reported the incidents to her supervisor.

Appellant submitted a July 12, 2018 witness statement with no signature that indicated that she was seen exiting the pulmonary breakroom when S.T., a pulmonary technician, approached her in a confrontational manner. S.T. was "all up in [appellant's] face" and complained about her scheduling of veterans for examination. He further instructed that appellant was not to schedule any more examinations for the month of July. Appellant had to squat down and squirm to get away from him and was observed looking intimidated and scared of S.T. S.T. was told that his behavior was unacceptable and when someone went to check on appellant, she was reported to appear devastated.

In a July 23, 2018 statement, appellant detailed a July 13, 2018 incident where S.T. peeked his head around the corner of her office, said "boo," and started laughing. She reported that this left her feeling helpless, intimidated and afraid. Appellant remained out of work from July 16 to 20, 2018 and treated with her doctor as a result.

Appellant also submitted e-mails dated June 4 through July 27, 2018 in which management observed an issue with scheduling PFTs and advised that patients would need to be contacted in order to get them in for appointments sooner. K.V., appellant's supervisor, offered to move her to a new location where she would be assigned new daily assignments, however, appellant declined the offer. She requested that she no longer be assigned to work with S.T. because it had caused her PTSD to flare up, but K.V. informed her that this would not be possible.

In medical reports dated July 19 and August 31, 2018, appellant informed Dr. Bruce Sellars, a licensed clinical psychologist, of two employment incidents on July 3 and 10, 2018 where she was bullied by a coworker. She asserted that this treatment had caused her PTSD symptoms to flare up. Appellant had been out of work since July 13, 2018. In subsequent medical reports, she reported that she had since returned to work but still felt haunted by her previous confrontations at work.

In a September 7, 2018 report of contact, T.S., an assistant chief supervisor, discussed a meeting she had with appellant and her union representative concerning an incident that occurred some time ago that caused her to develop PTSD. Appellant claimed that she was feeling unsafe in her current work location and with her workload. T.S. reminded her that she had previously been offered a change of assignment by her direct supervisor and that she would still be willing to relocate her to another location. Appellant expressed concern that this type of move would result in her being assigned additional duties above her current ones and requested that she be kept in the same location with a lighter workload. T.S. informed her that all medical support assistants were assigned the same workload and that if she chose to stay in the same location she would need to be able to work at the same level. Appellant subsequently declined the offer to change locations.

In a September 10, 2018 letter, Dr. Sellars advised that he had been treating appellant for her PTSD since 2014 in relation to a 2012 employment incident. He indicated that, since that time, her ability to tolerate stress had been significantly reduced, she was sensitive to environmental factors and that she was greatly upset by the potential of conflict in addition to impaired sleep, intense anxiety and diminished concentration. Dr. Sellars reviewed appellant's medical treatment and indicated that she was recently overwhelmed at work, causing her to leave due to emotional distress. He opined that she was not in any condition to work at the employing establishment despite accommodations and the offer of different job assignments, which was a result of her original assault from several years ago.

In a September 20, 2018 medical note, Dr. Sellars indicated that appellant was still struggling to go to work due to issues with stress management.

In a September 28, 2018 letter, Dr. Sellars explained that, after two employment incidents on July 3 and 10, 2018, appellant reported that she had experienced bullying and taunting from one of her coworkers. He observed that she was tearful and that it was evident that she was upset. Dr. Sellars noted that since that time appellant had experienced a recurrence of her PTSD symptoms and advised that she not continue working after July 30, 2018. He opined that her PTSD was directly caused by the circumstances of a 2012 employment incident and was recently aggravated by the July 3 and 10, 2018 employment incidents.

In a duty status report (Form CA-17) of even date, Dr. Sellars diagnosed PTSD and advised that appellant was not to resume work.

In medical reports dated from October 1 to 25, 2018, Dr. Sellars reviewed appellant's condition relating to her stress management as she returned to work. He noted that she had been off from work and, upon evaluation, advised that she would not be able to return to work during the period October 11 to December 14, 2018.

In a November 1, 2018 incident report, T.S. made note of the July 3 and 10, 2018 employment incidents where appellant claimed she was verbally assaulted by one of her coworkers. She observed that appellant was offered a relocation assignment after both instances but declined the offers.

In a November 7, 2018 e-mail, K.V. explained that she had two discussions with appellant on June 2 and 5, 2018 concerning the PFT schedule. She did not understand why patients were waiting 30 days for their preferred schedule date when the clinic had several dates available. Appellant explained that S.T. would be upset if she were to fill all the appointment slots for his clinic and she did not want to cause any problems with him. K.V. then informed her of the importance of the usage of all of the available scheduling for PFTs. On July 10, 2018 appellant requested that she come to her office, asserting that S.T. was upset about his scheduling and that she felt that her health was in jeopardy. K.V. offered to have her relocated to another duty station but appellant declined the offer. Thereafter, appellant sent a July 12, 2018 e-mail where she described the incident with S.T. and explained that she would no longer be able to work under the stressful conditions. K.V. again offered to move her to a different duty station out of concern for her safety and asked her to respond by July 13, 2018 with her decision. Appellant again declined the offer to move duty stations and began to use leave under the Family and Medical Leave Act

(FMLA), leaving work early or arriving late. K.V. subsequently learned of an issue with PFT scheduling and on July 23, 2018 informed appellant that she could either take a new assignment with new duties at a new location or remain at her current duty station where she would have to continue to schedule PFT appointments and perform her other duties. Appellant again declined, explaining that she had no desire to be moved.

In a November 16, 2018 response to OWCP's development questionnaire, appellant again described the July 3 and 10, 2018 employment incidents in which S.T. came into her office and yelled at her while slamming his schedule down on her desk. She claimed that, despite multiple people explaining the PFT scheduling changes that were mandated by management, he continued to harass her. Appellant reported being "completely frozen," afraid and short of breath with an elevated heartbeat, chest pain, and sweating. After another coworker left the office and left her alone with S.T., appellant immediately left work to avoid another conflict with him. She went on to describe the history of her PTSD in relation to a 2014 employment incident under OWCP File No. xxxxxx726. Appellant explained that it was difficult for her to control her emotions when she experienced a flare up of her PTSD symptoms and indicated that the July 3 and 10, 2018 incidents with S.T. caused her extreme mental and physical stress that made it impossible for her to continue working. She later filed an Equal Employment Opportunity (EEO) complaint, which found that S.T. had created a hostile and harassing work environment. An EEO supervisor informed her that he had been given 30 days off from work and advised that he would be fired if there was another incident. Appellant however indicated that she did not complete any documents or forms from the EEO concerning these incidents to her knowledge. She further explained the reason she did not accept the employing establishment's earlier offers of a new employment location was because she had worked in the location before and that it was a small space filled with a lot of employees. Appellant asserted that she had experienced PTSD symptoms while working in the location. She also explained that she notified her supervisors within the first 30 days of the incident and that she was initially told she would not have to file an additional claim because she had already filed a previous one for her condition.

Appellant attached an October 7, 2016 letter from the employing establishment which contained a description of her accommodated employment assignment as well as additional e-mails dated July 13 to 27, 2018 indicating that she informed her supervisors of the July 3 and 10, 2018 employment incidents. A.C., appellant's supervisor, originally advised that she file a claim for a recurrence of disability (Form CA-2a) and also discussed employment options that would offer new duties or a new employment location.

In a November 26, 2018 letter, Dr. Sellars noted that he had attached copies of his September 10 and 28, 2018 letters in order to summarize appellant's treatment for her PTSD-related symptoms. He found that, since she had been off of work, many of her symptoms had lessened considerably and that her prognosis would improve once she was no longer working for the employing establishment.

In response to OWCP's development questionnaire, K.V. explained in a November 30, 2018 statement that the employing establishment agreed that the July 3 and 10, 2018 employment incidents occurred. She described a June 2, 2018 meeting she had with appellant where she sought to have a meeting with her, S.T., and his supervisor, but appellant indicated that it would not be necessary. K.V. also noted that appellant was offered an employment assignment in a different

location but that she declined the offer. She discussed scheduling instructions with appellant on June 5, 2018, when she then informed her of problems she was having with S.T. getting upset over scheduling changes. K.V. again offered her an opportunity to change her employment assignment but she again declined the offer. She reported that appellant was informed on June 4, 2018 that she would need to schedule PFT appointments per the employing establishment's directive and S.T.'s request. K.V. recognized that this change in scheduling resulted in friction between appellant and S.T. The employing establishment also attached a position description detailing the duties of a medical support assistant.

In a December 3, 2018 medical note, Dr. Sellars advised that appellant was not prepared to return to work and requested that her return date be extended to February 15, 2019. He also indicated that he discussed the employing establishment's offer of a modified assignment to the consulting team. Appellant advised that she had previously worked in this location in the past and it was a stressful work environment that would not be a solution for her.<sup>4</sup>

By decision dated December 10, 2018, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish that a medical condition arose during the course of employment and within the scope of compensable work factors as defined by FECA.

OWCP continued to receive evidence. Appellant submitted a December 21, 2018 letter in which Dr. Sellars explained that because her PTSD was aggravated by the employment incidents she associated her trauma with certain elements of her working at the employing establishment. Dr. Sellars opined that, once appellant was no longer working at the employing establishment, her prognosis would improve as she would be less likely to experience such situations. He described appellant's history of medical treatment dating back to the September 22, 2014 employment incident under OWCP File No. xxxxxx726. Dr. Sellars indicated that, since that time, she had felt a heightened sense of anxiety and had been on guard against potential threats. He further detailed appellant's treatment plan and what would be beneficial for her moving forward.

On January 4, 2019 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. In an attached statement dated January 3, 2019, she again described the July 3, 2018 employment incident in which S.T. approached her in a violent and angry manner and yelled at her concerning scheduling issues. Appellant reported feeling scared, having to cower down in her chair and that if she did not listen to him, she would be harmed physically. She disagreed with the employing establishment's statement that she was offered a different assignment, instead asserting that she was not offered a different assignment until July 12, 2018. Appellant further explained that she declined to be moved to a different employment location because she had been informed that S.T. may be removed from his position by the time she returned to work. She also attached copies of e-mails and witness statements dated July 11 to 24, 2018 previously considered by OWCP.

By a preliminary decision dated April 2, 2019, an OWCP hearing representative determined that appellant's case was not in posture for a hearing given that OWCP provided no

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<sup>4</sup> The employing establishment also attached a December 3, 2018 e-mail in which K.V. indicated that appellant had never been assigned to work in that location on the consulting team.

explanation in support of its review of the evidence submitted. He advised that, after preparing a finding of facts explaining the alleged incidents and performing any other development deemed necessary, OWCP should issue a *de novo* decision regarding her claim.

By decision dated April 17, 2019, OWCP denied appellant's claim for an emotional condition, finding that the evidence was not sufficient to establish that her medical condition arose during the course of employment and within the scope of compensable work factors.

On April 17, 2020 appellant, through counsel, requested reconsideration of OWCP's April 17, 2019 decision. In an attached memorandum of even date, counsel argued that OWCP erred in its April 17, 2019 decision when it found that S.T.'s actions on July 3 and 10, 2018 did not rise to the level of verbal abuse that is compensable under FECA. He offered that the witness statements and previous Board decisions clearly demonstrated that the incidents in question rose to the level of compensability under FECA.

In medical reports dated February 4 and April 26, 2019, Dr. John Heil, a licensed clinical psychologist, opined that, based on a review of appellant's clinical record, she had been suffering from a work-related condition dating back to June 2, 2012. He explained that, although she returned to work, she continued to experience problems until she received psychological treatment and was diagnosed with PTSD. On evaluation, Dr. Heil explained that the hostile encounters appellant experienced on July 3 and 10, 2018 while at work exacerbated her existing symptoms and diagnosed PTSD, depression and pain disorder as a result.

By decision dated July 10, 2020, OWCP denied modification of its prior decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>5</sup> has the burden of proof to establish the essential elements of his or her claim,<sup>6</sup> including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was filed within the applicable time limitation, that an injury was sustained in the performance of duty, and that any specific condition or disability for work for which he or she claims compensation is causally related to that employment injury.<sup>7</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.<sup>8</sup>

To establish an emotional condition in the performance of duty, appellant must submit the following: (1) factual evidence identifying employment factors or incidents alleged to have caused or contributed to the condition; (2) rationalized medical evidence establishing that he or she has

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<sup>5</sup> *Supra* note 2.

<sup>6</sup> *D.G.*, Docket No. 22-0654 (issued May 11, 2023); *O.G.*, Docket No. 18-0359 (issued August 7, 2019); *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

<sup>7</sup> *D.G.*, *id.*; *O.G.*, *id.*; *M.M.*, Docket No. 08-1510 (issued November 25, 2010); *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>8</sup> 20 C.F.R. § 10.115(e); *M.K.*, Docket No. 18-1623 (issued April 10, 2019); *see T.O.*, Docket No. 18-1012 (issued October 29, 2018); *Michael E. Smith*, 50 ECAB 313 (1999).

an emotional condition or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the emotional condition is causally related to the identified compensable employment factors.<sup>9</sup>

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. In the case of *Lillian Cutler*,<sup>10</sup> the Board explained that there are distinctions as to the type of employment situations giving rise to a compensable emotional condition arising under FECA. There are situations where an injury or illness has some connection with the employment, but nevertheless does not come within coverage under FECA.<sup>11</sup> When disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employing establishment, the disability is deemed compensable.<sup>12</sup>

To the extent that disputes and incidents alleged as constituting harassment by coworkers are established as occurring and arising from a claimant's performance of his or her regular duties, these could constitute employment factors.<sup>13</sup> However, for harassment to give rise to a compensable disability under FECA there must be evidence that harassment did, in fact, occur. Mere perceptions of harassment are not compensable under FECA.<sup>14</sup> Additionally, verbal altercations and difficult relationships with supervisors, when sufficiently detailed by the claimant and supported by the record, may constitute factors of employment. This does not imply, however, that every statement uttered in the workplace will give rise to coverage under FECA.<sup>15</sup>

Perceptions and feelings, alone, are not compensable. To establish entitlement to benefits, a claimant must establish a basis in fact for the claim by supporting his or her allegations with probative and reliable evidence.<sup>16</sup> When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, OWCP must base its decision on an analysis of the medical evidence.<sup>17</sup>

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<sup>9</sup> *W.F.*, Docket No. 18-1526 (issued November 26, 2019); *C.M.*, Docket No. 17-1076 (issued November 14, 2018); *C.V.*, Docket No. 18-0580 (issued September 17, 2018); *Kathleen D. Walker*, 42 ECAB 603 (1991).

<sup>10</sup> 28 ECAB 125 (1976).

<sup>11</sup> *G.M.*, Docket No. 17-1469 (issued April 2, 2018); *Robert W. Johns*, 51 ECAB 137 (1999).

<sup>12</sup> *A.C.*, Docket No. 18-0507 (issued November 26, 2018); *Pamela D. Casey*, 57 ECAB 260, 263 (2005); *Lillian Cutler*, *supra* note 10.

<sup>13</sup> *See B.S.*, Docket No. 19-0378 (issued July 10, 2019); *M.R.*, Docket No. 18-0304 (issued November 13, 2018); *David W. Shirey*, 42 ECAB 783, 795-96 (1991); *Kathleen D. Walker*, *supra* note 9.

<sup>14</sup> *A.E.*, Docket No. 18-1587 (issued March 13, 2019); *Jack Hopkins, Jr.*, 42 ECAB 818, 827 (1991).

<sup>15</sup> *Y.B.*, Docket No. 16-0193 (issued July 23, 2018); *Marguerite J. Toland*, 52 ECAB 294 (2001).

<sup>16</sup> *G.R.*, Docket No. 18-0893 (issued November 21, 2018); *Roger Williams*, 52 ECAB 468 (2001).

<sup>17</sup> *See C.M.*, *supra* note 9; *Norma L. Blank*, 43 ECAB 384, 389-90 (1992).



## ANALYSIS

The Board finds that this case is not in posture for decision.

Appellant alleged that she sustained an emotional condition as a result of employment factors. OWCP denied her emotional condition claim, finding that she had not established a compensable employment factor. The Board must, therefore, initially review whether these alleged employment factors are compensable under FECA.<sup>18</sup>

The Board notes that appellant's allegations do not pertain to her regularly or specially assigned duties under *Cutler*. Rather, appellant has alleged a hostile work environment, harassment and abuse by her coworker.

Appellant submitted multiple statements detailing her interactions with S.T. on July 3 and 10, 2018 in which he approached her in an aggressive manner and yelled at her over issues concerning the PFT schedule. For harassment or discrimination to give rise to a compensable disability under FECA, there must be evidence that harassment or discrimination did in fact occur.<sup>19</sup> Appellant submitted multiple witness statements dated July 11 and 12, 2018 where her coworkers described S.T.'s actions toward her on July 3 and 10, 2018 and opined that he was bullying, harassing and condescending towards her. He was reported to have been speaking to her in an aggressive manner to the point where appellant appeared devastated and had to "squirm" in order to get away from him. Additionally, in K.V.'s November 30, 2018 statement she indicated that the employing establishment agreed that the July 3 and 10, 2018 employment incidents occurred as appellant described them. Verbal altercations and difficult relationships with coworkers, when sufficiently detailed and supported by the record, may constitute compensable factors of employment.<sup>20</sup> The Board therefore finds that appellant has provided reliable and probative evidence regarding S.T. yelling at her and confronting her in an aggressive manner. Thus, appellant has established a compensable employment factor with respect to the allegations of harassment by S.T.<sup>21</sup> As the Board finds that appellant has established a compensable employment factor with respect to her allegations of harassment, OWCP must base its decision on analysis of the medical opinion evidence with regard to causal relationship.<sup>22</sup>

Further, OWCP's procedures provide that cases should be administratively combined when correct adjudication of the issues depends on frequent cross-referencing between case files.<sup>23</sup> For example, if a new injury case is reported for an employee who previously filed an injury claim for

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<sup>18</sup> *Y.W.*, Docket No. 19-1877 (issued April 30, 2020); *Dennis J. Balogh*, 52 ECAB 232 (2001).

<sup>19</sup> *J.F.*, 59 ECAB 331 (2008); *S.B.*, Docket No. 18-1113 (issued February 21, 2019); *Janet I. Jones*, 47 ECAB 345, 347 (1996); *Robert Breeden*, 57 ECAB 622 (2006).

<sup>20</sup> *Supra* note 9.

<sup>21</sup> *Supra* note 13; *see also J.F.*, Docket No. 20-1118 (issued September 2, 2022).

<sup>22</sup> *See J.F., id.*; *M.D.*, Docket No. 15-1796 (issued September 7, 2016).

<sup>23</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8c (February 2000); *R.R.*, Docket No. 19-0368 (issued November 26, 2019).

a similar condition or the same part of the body, doubling is required.<sup>24</sup> Appellant previously filed an occupational disease claim on December 8, 2016 for an emotional condition, to which OWCP assigned File No. xxxxxx726. On June 5, 2017 OWCP accepted her claim for chronic PTSD. However, the medical records of OWCP File No. xxxxxx726 have not been administratively combined for cross-referencing as required by OWCP procedures. For a full and fair adjudication, the Board finds that this case shall be remanded to OWCP to administratively combine the present claim file with OWCP File No. xxxxxx726. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

**CONCLUSION**

The Board finds that this case is not in posture for decision.

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 10, 2020 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: June 15, 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

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<sup>24</sup> *Id.*