

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

L.C., Appellant)

and)

U.S. POSTAL SERVICE, WHEATON POST)
OFFICE, Silver Spring, MD, Employer)
-----)

Docket No. 23-0257
Issued: June 9, 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
JANICE B. ASKIN, Judge
JAMES D. MCGINLEY, Alternate Judge

On December 12, 2022 appellant filed a timely appeal from a November 29, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 23-0257.

On March 2, 2022 appellant, then a 38-year-old window clerk, filed an occupational disease claim (Form CA-2) alleging that a prior injury and factors of her federal employment, including lifting and sitting, as well as stress in the work environment, resulted in fibromyalgia and chronic fatigue and pain. She stopped work on February 15, 2022.

By decision dated May 27, 2022, OWCP denied appellant's claim, finding that she had not submitted sufficient evidence to establish that the work factors alleged occurred as described.

Appellant requested a hearing before a representative of OWCP's Branch of Hearings and Review on June 7, 2022.

By decision dated November 29, 2022, OWCP affirmed the May 27, 2022 decision, modifying the basis of denial to insufficient evidence to establish a causal relationship between accepted work factors and her diagnosed conditions. The hearing representative found that, "Since [appellant] has filed previous claims for back injuries, it would be appropriate to combine case file numbers [xxxxxxx]347, [xxxxxxx]689, and [xxxxxxx]089 with case file number [xxxxxxx]679 so a complete and accurate history is available.

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 depends on frequent cross-referencing between files and where two or more injuries occur to the same part of the body.¹ This will allow OWCP to consider all relevant claim files in developing this schedule award claim.² In the present claim, the hearing representative recommended combination of OWCP File Nos. xxxxxx347, xxxxxx689, and xxxxxx089 with the present case file. However, the administrative combination of these files did not occur.

Accordingly, the Board will remand the case to OWCP to administratively combine OWCP File Nos. xxxxx347, xxxxxx689, and xxxxxx089 with OWCP File No. xxxxxx679, the subject of the present appeal. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* merit decision.

IT IS HEREBY ORDERED THAT the November 29, 2022 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: June 9, 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

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

² *Id.*