

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

M.L., Appellant)	
)	
and)	Docket No. 23-0029
)	Issued: May 16, 2023
U.S. POSTAL SERVICE, BERNVILLE POST)	
OFFICE, Bernville, PA, Employer)	
)	

Appearances: *Case Submitted on the Record*
Michael D. Overman, Esq., for the appellant¹
Office of Solicitor, for the Director

ORDER REMANDING CASE

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

On October 12, 2022 appellant, through counsel, filed a timely appeal from an April 21, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 23-0029.

On November 15, 2020 appellant, then a 60-year-old rural carrier, filed a notice of recurrence (Form CA-2a) under a prior claim, assigned OWCP File No. xxxxxx332, alleging that she sustained a recurrence of disability commencing October 20, 2014, due to her accepted condition(s) under that claim. She listed the date of her prior injury as October 8, 2012, and indicated that, shortly after returning to light-duty work in 2014, she began to experience a gradual worsening of her right shoulder and cervical pain, which had never gone away. Appellant expressed her belief that this pain was related to her prior accepted injury "because the painful sensations are in the same places [and] my limitations feel the same." However, OWCP then determined that appellant was actually claiming a new occupational disease, rather than a

¹ 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 a 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.

recurrence of disability related to the prior accepted claim, and created the present claim file, assigned OWCP File No. xxxxxx863. It indicated that the prior claim pertained to the medical condition of appellant's right shoulder.

By decision dated February 11, 2021, OWCP accepted the established employment factors, including lifting and delivering mail. However, it denied her claim, finding that she had not submitted sufficient medical evidence to establish a diagnosed medical condition casually related to the accepted employment factors.

On January 28, 2022 appellant, through counsel, requested reconsideration and submitted additional medical evidence.

By decision dated April 21, 2022, OWCP denied modification of its February 11, 2021 decision.

The Board, having duly considered the 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.² 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, doubling is required.³

OWCP found that the present claim, OWCP File No. xxxxxx863, constituted a claim for a new occupational right shoulder injury, rather than a claim for recurrence of disability related to the condition(s) accepted under OWCP File No. xxxxxx332. The Board notes that both OWCP File No. xxxxxx332 and OWCP File No. xxxxxx863 pertain to the medical condition of appellant's right shoulder. Therefore, for a full and fair adjudication, the case shall be returned to OWCP to administratively combine OWCP File No. xxxxxx332 with OWCP File No. xxxxxx863. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision. Accordingly,

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

³ *Id.*; *A.D.*, Docket No. 22-0147 (issued July 1, 2022); *S.G.*, Docket No. 21-0396 (issued September 27, 2021); *R.L.*, Docket No. 20-0901 (issued July 27, 2021); *M.E.*, Docket No. 21-0094 (issued May 27, 2021); *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 April 21, 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: May 16, 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