

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

B.M., Appellant)	
)	
and)	Docket Nos. 23-0426,
)	23-0427, & 23-0428
DEPARTMENT OF HOMELAND SECURITY,)	Issued: September 20, 2023
U.S. SECRET SERVICE, Washington, DC,)	
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
JAMES D. MCGINLEY, Alternate Judge

JURISDICTION

On February 3, 2023 appellant filed a timely appeal from a November 29, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP) under OWCP File No. xxxxxx178. The Clerk of the Appellate Boards assigned Docket No. 23-0426.

Also on February 3, 2023, appellant filed timely appeals from November 29 and December 7, 2022 merit decisions of OWCP under OWCP File Nos. xxxxxx193 and xxxxxx643. The Clerk of the Appellate Boards assigned those appeals Docket No. 23-0427 and 23-0428, respectively.

Under OWCP File No. xxxxxx178, on October 12, 2022, appellant then a 39-year-old criminal investigator, filed a traumatic injury claim (Form CA-1) alleging that on January 7, 2021 she fell when performing pullups to maintain mandatory fitness standards and developed tightness in her lower back and left hamstring while in the performance of duty. She related that she subsequently felt the same pain on March 1, 2022 when she was performing deadlifts to maintain fitness standards and felt a pull in her lower back. Appellant related that a magnetic resonance imaging (MRI) scan demonstrated a "massive herniation at the L5-S1 vertebra." She did not stop

work. By decision dated November 29, 2022, OWCP accepted that the January 7, 2021 employment incident occurred as alleged. However, it denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish causal relationship between her diagnosed medical condition and the accepted January 7, 2021 employment incident.

Under OWCP File No. xxxxxx193, on October 12, 2022, appellant filed a traumatic injury claim (Form CA-1) alleging that on August 20, 2018 she developed a herniated disc at L5-S1 after participating in a mandatory physical fitness assessment while in the performance of duty. She related that she completed a 1.5 mile run, and immediately felt tingling and a dull pain radiating down her left leg. Appellant did not stop work. By decision dated November 29, 2022, OWCP accepted that the August 20, 2018 employment incident occurred as alleged. However, it denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish causal relationship between her diagnosed medical condition and the accepted August 20, 2018 employment incident.

Under OWCP File No. xxxxxx643, on October 24, 2022, appellant filed a traumatic injury claim (Form CA-1) alleging that on March 1, 2022 she developed a severe herniated disc at the L5-S1 vertebra while in the performance of duty. She related that she was at a field office gym performing deadlifts to maintain fitness standards and felt a pull in her lower back, after which the pain in her lower back and left hamstring increased. Appellant did not stop work. By decision dated December 7, 2022, OWCP accepted that the March 1, 2022 employment incident occurred as alleged. However, it denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish causal relationship between her diagnosed medical condition and the accepted March 1, 2022 employment incident.

The Board, having duly considered these matters, finds that these cases are 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.¹ For example, if a new injury case is reported for an employee who previously filed an injury claim for a similar condition, doubling is required.²

For a full and fair adjudication, these cases must be remanded to OWCP to administratively combine OWCP File Nos. xxxxxx178, xxxxxx193, and xxxxxx643, all of which involve claimed lumbar conditions. On remand, OWCP shall review all relevant evidence to determine whether appellant has established an injury in the performance of duty under each claim. Following this and other such further development as deemed necessary, OWCP shall issue *de novo* decisions. Accordingly,

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

² *Id.*; *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 November 29 and December 7, 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: September 20, 2023
Washington, DC

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

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

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board