

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

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H.C., Appellant)	
)	
and)	Docket No. 23-0607
)	Issued: September 14, 2023
U.S. POSTAL SERVICE, LEWISBURG POST OFFICE, Lewisburg, OH, Employer)	
_____)	

<i>Appearances:</i> <i>Alan J. Shapiro, Esq., for the appellant¹</i> <i>Office of Solicitor, for the Director</i>	<i>Case Submitted on the Record</i>
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ORDER REMANDING CASE

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
JAMES D. MCGINLEY, Alternate Judge

On March 21, 2023 appellant, through counsel, filed a timely appeal from a February 23, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 23-0607.

On October 1, 2020 appellant, then a 48-year-old rural carrier, filed an occupational disease claim (Form CA-2) alleging that she experienced pain between her shoulders caused by what she believed to be herniated discs and disc protrusions, which were due to factors of her federal employment. She noted that she first became aware of her condition and realized its relation to her federal employment on July 20, 2020. On the reverse side of the claim form, appellant's

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 an 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.

supervisor noted that, at the time of the claim, appellant was working with restrictions due to her accepted bilateral shoulder conditions under OWCP File No. xxxxxx954.²

By decision dated November 17, 2020, OWCP denied the present claim, finding that the evidence of record was insufficient to establish that the diagnosed medical conditions were causally related to the “accepted work event(s)” with regard to a July 20, 2020 work-related exposure. By decision dated March 11, 2022, it modified the denial of the claim to find that the evidence of record was insufficient to establish the alleged employment factors, as the evidence was unclear as to what factors of employment appellant was claiming to have caused her medical conditions. Appellant subsequently requested reconsideration. By decision dated June 30, 2022, OWCP denied appellant’s request for reconsideration, pursuant to 5 U.S.C. § 8128(a).

Appellant again requested reconsideration. By decision dated February 23, 2023, OWCP denied modification of its prior decision.

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 of the issues depends on frequent cross-referencing between case files.³ 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.⁴

Under OWCP File No. xxxxxx954 OWCP accepted bilateral shoulder conditions. As the present claim also involves shoulder conditions, the Board finds that the claims must be administratively combined for a full and fair adjudication. Consolidation of the case files prior to the final decision would allow OWCP to consider all relevant claim files and accompanying evidence in developing appellant’s present claim.

Accordingly, the Board will remand the case for OWCP to administratively combine OWCP File No. xxxxxx954 with the present claim. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

² Appellant had filed a notice of occupational disease (Form CA-2) on April 12, 2019 alleging left shoulder pain and pain between the shoulder blades. OWCP assigned that claim OWCP File No. xxxxxx954 and accepted it for: incomplete rotator cuff tear or rupture of left shoulder, not specified as traumatic; other specified disorders of tendon, right shoulder aggravation; superior glenoid labrum lesion of right shoulder aggravation; primary osteoarthritis, right shoulder aggravation; sprain of left rotator cuff capsule; primary osteoarthritis left shoulder aggravation; and adhesive capsulitis of right and left shoulders.

³ *K.R.*, Docket No. 20-0911 (issued October 30, 2020); *R.R.*, Docket No. 19-0368 (issued November 26, 2019); Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance & Management*, Chapter 2.400.8c (February 2000).

⁴ *Id.*

IT IS HEREBY ORDERED THAT the February 23, 2023 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this order of the Board.

Issued: September 14, 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