

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

L.A., Appellant)	
)	
and)	Docket No. 23-0654
)	Issued: September 22, 2023
U.S. POSTAL SERVICE, YONKERS POST)	
OFFICE, Yonkers, NY, Employer)	
)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

On April 5, 2023 appellant filed a timely appeal from a December 21, 2022 merit decision and a March 21, 2023 nonmerit decision of the Office of Workers' Compensation Programs (OWCP).¹ The Clerk of the Appellate Boards assigned the appeal Docket No. 23-0654.

On December 2, 2016 appellant, then a 24-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on December 1, 2016 she experienced pain in her lower back, shoulders, and neck when carrying mail while in the performance of duty. OWCP assigned the claim File No. xxxxxx884 and accepted it for lumbar strain; right-side sciatica; lumbar radiculopathy; and lumbar disc herniation at L4-5 and L5-S1. Appellant returned to work in a part-time light-duty capacity on December 17, 2018. OWCP paid her intermittent wage-loss compensation on the supplemental rolls from January 16, 2017 through March 26, 2020.

¹ The Board notes appellant submitted additional evidence on appeal to the Board. However, the Board's *Rules of Procedures* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

On March 2, 2020 appellant filed a Form CA-1 alleging that she sustained a low back injury on February 25, 2020 when handling a tub of mail while in the performance of duty. OWCP assigned this claim File No. xxxxxx575 and denied it by decision dated July 2, 2020.

On July 18, 2022 appellant filed a claim for compensation (Form CA-7) for disability from work for the period April 11 through July 7, 2020, under the current claim file, OWCP File No. xxxxxx884.

By decision dated September 29, 2022, OWCP denied appellant's claim for wage-loss compensation for disability from work for the period April 11 through July 7, 2020.

On October 5, 2022 appellant requested reconsideration.

By decision dated December 21, 2022, OWCP denied modification of the September 29, 2022 decision.

On January 16, 2023 appellant requested reconsideration and submitted additional evidence.

By decision dated March 21, 2023, OWCP denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

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 case 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 The Board notes that the present claim for compensation under OWCP File No. xxxxxx884 alleges a recurrence of the accepted lumbar conditions from her December 1, 2016 work injury, and appellant also has a claim for a traumatic back injury on February 25, 2020 under OWCP File No. xxxxxx575. OWCP noted in the decision dated September 29, 2022 that the medical evidence justified disability due to the February 25, 2020 injury.

For a full and fair adjudication, the case must be remanded to OWCP to administratively combine OWCP File Nos. xxxxxx575 and xxxxxx884, so it can consider all accompanying evidence in adjudicating appellant's claims. Following this, and other such further development as deemed necessary, OWCP shall issue a *de novo* decision. Accordingly,

² Federal (FECA) Procedure Manual, Part 2 -- Claims, *Doubling Case Files*, Chapter 2.400.8c (February 2000); *T.D.*, Docket No. 20-1119 (issued January 29, 2021); *R.R.*, Docket No. 19-0368 (issued November 26, 2019).

³ *Id.*; *A.M.*, Docket No. 22-0095 (issued May 9, 2022); *M.B.*, Docket No. 20-1175 (issued December 31, 2020); *L.M.*, Docket No. 19-1490 (issued January 29, 2020).

IT IS HEREBY ORDERED THAT the December 21, 2022 and March 21, 2023 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 22, 2023
Washington, DC

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

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board

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