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

C.W., Appellant	) )
and	) Docket No. 23-0688 ) Issued: September 13, 2023
U.S. POSTAL SERVICE, GILBERT VAL VISTA STATION, Gilbert, AZ, Employer	)
Appearances:  Michael John Watson, Esq., for the appellant <sup>1</sup> 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

On April 17, 2023 appellant, through counsel, filed a timely appeal from a December 6, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 23-0688.

On July 14, 2022 appellant, then a 54-year-old rural mail carrier, filed a notice of recurrence of disability (Form CA-2a) alleging that on June 20, 2022 she began having constant left hand and thumb pain while casing and delivering mail. She indicated the date of her original injury was April 4, 2007, and that following her return to work in 2007 she was able to perform her usual duties without restrictions.<sup>2</sup> In an August 1, 2022 letter, OWCP noted receipt of her July 14, 2022 Form CA-2a. It advised appellant that it appeared that she was claiming a new

<sup>&</sup>lt;sup>1</sup> 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 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.

 $<sup>^2</sup>$  Appellant has a prior occupational disease claim under OWCP File No. xxxxxxx944 which was accepted for other tenosynovitis of hand and wrist, left.

occupational disease based on her description of the circumstances. Thus, OWCP converted her recurrence claim under OWCP File No. xxxxxx944 to a new occupational disease claim, assigned OWCP File No. xxxxxx925.

By decision dated October 7, 2022, OWCP denied the present claim, finding that the evidence of record was insufficient to establish a diagnosed condition in connection with the accepted employment factors.

On October 17, 2022 appellant requested reconsideration.

By decision dated December 6, 2022, OWCP modified its prior decision, finding that appellant had established valid medical diagnosis of her bilateral hand conditions based upon a July 19, 2022 report from Dr. Michael McGrath, a specialist in orthopedic surgery. However, the claim remained denied, because the medical evidence of record was insufficient to establish causal relationship between her diagnosed bilateral hand conditions and the accepted employment factors.

The Board has duly considered this matter and 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.<sup>3</sup> 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.<sup>4</sup> Herein, appellant had a prior claim under OWCP File No. xxxxxx944 for a left-hand condition. She subsequently filed a recurrence claim on July 14, 2022 which OWCP developed as a new occupational disease claim under the present claim, OWCP File No. xxxxxx925.

For a full and fair adjudication, the case must be remanded for OWCP to administratively combine the current case record, OWCP File No. xxxxxx925 with OWCP File No. xxxxxx944. On remand, OWCP shall review all relevant evidence to determine whether appellant has established that her diagnosed bilateral hand conditions are causally related to the accepted factors of her federal employment. Following this and other such further development as deemed necessary, it shall issue a *de novo* decision. Accordingly,

<sup>&</sup>lt;sup>3</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8c (February 2000).

<sup>&</sup>lt;sup>4</sup> *Id. See also Order Remanding Case*, Docket No. 22-1293 (issued March 13, 2023); *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 December 6, 2022 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 13, 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