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

D.H., Appellant	
and	) Docket No. 23-1117
U.S. POSTAL SERVICE, ODESSA POST OFFICE, Odessa, FL, Employer	) Issued: February 13, 2024 ) ) )
Appearances: Capp Taylor, 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 August 18, 2023 appellant, through her representative, filed a timely appeal from a February 28, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 23-1117.

On April 6, 1998 appellant, then a 55-year-old rural letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on that date she injured her neck, back, shoulder, and left wrist when she tripped and fell on a trailer ramp after attempting to prevent mail from falling out of a hamper she was pushing while in the performance of duty.<sup>2</sup> OWCP accepted the claim for lumbar

<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>&</sup>lt;sup>2</sup> OWCP assigned the present claim OWCP File No. xxxxxx320. Appellant subsequently filed a November 13, 2000 traumatic injury claimunder OWCPFile No. xxxxxx764 for an injury to her right thumb and wrist, which OWCP accepted for crushing injury of the right fingers. Additionally, OWCP accepted a March 7, 2001 occupational disease claim under OWCP File No. xxxxxx618 for trigger fingers and carpal tunnel syndrome of the right hand and wrist. Appellant's claims have not been administratively combined by OWCP.

strain, cervical strain, left shoulder strain, bilateral carpal tunnel syndrome, and aggravation of congenital spondylolisthesis.

Appellant filed a claim for compensation (Form CA-7) for a schedule award.

By decision dated August 23, 2016, OWCP granted appellant a schedule award for two percent permanent impairment of each upper extremity. The award ran for 12.48 weeks from January 9 through April 5, 2016.

On June 13, 2022 appellant filed a Form CA-7 for an additional schedule award.

By decision dated October 19, 2022, OWCP granted appellant an additional schedule award for a total of 29 percent permanent impairment of the left upper extremity, 7 percent permanent impairment of the right upper extremity, 30 percent permanent impairment of the left lower extremity, and 30 percent permanent impairment of the right lower extremity. The award ran for 285.12 weeks from July 19, 2021 through January 4, 2027.

By decision dated February 28, 2023, OWCP issued a corrected schedule award determination, finding a total of 29 percent permanent impairment of the left upper extremity, 30 percent permanent impairment of the left lower extremity, and 30 percent permanent impairment of the right lower extremity. It determined that, as a prior thumb impairment had been included in a separate case, appellant was not entitled to an additional schedule award for permanent impairment of the right upper extremity. The award ran for 262.28 weeks from July 19, 2021 through August 4, 2026.

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 or the same part of the body, doubling is required.<sup>4</sup> This will allow OWCP to consider all relevant claim files in developing this schedule award claim.<sup>5</sup> Herein, appellant filed a traumatic injury claim on April 6, 1998, assigned OWCP File No. xxxxxxx320, which was accepted for lumbar strain, cervical strain left shoulder strain, bilateral carpal tunnel syndrome, and aggravation of congenital spondylolisthesis and is the claim presently before the Board. She subsequently filed two claims for right upper extremity conditions, assigned OWCP File Nos.

<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.*; *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 July 29, 2020); *L.H.*, Docket No. 18-1777 (issued July 2, 2019).

<sup>&</sup>lt;sup>5</sup> Supra note 4; see I.H., Docket No 22-1127 (issued May 12, 2023).

xxxxxx764 and xxxxxx618. Under File No. xxxxxxx618 OWCP granted appellant a schedule award for eight percent permanent impairment of the right thumb.

For a full and fair adjudication, the case shall be remanded to OWCP to administratively combine the current case record, OWCP File No. xxxxxx320, with OWCP File Nos. xxxxxx764 and xxxxxx618, so it can review all appellant's relevant claim files in determining whether she has submitted sufficient evidence to establish additional permanent impairment of a scheduled member or function of the body due to the accepted employment injury. Following this and such further development as deemed necessary, OWCP shall issue a *de novo* decision. Accordingly,

IT IS HEREBY ORDERED THAT the February 28, 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: February 13, 2024

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