

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

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V.M., Appellant)	
)	
and)	Docket No. 24-0018
)	Issued: February 22, 2024
U.S. POSTAL SERVICE, SHREVEPORT)	
ANNEX, Shreveport, LA, Employer)	
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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 October 9, 2023 appellant filed a timely appeal from a June 21, 2023 merit decision and an August 2, 2023 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 24-0018.

On April 5, 2023 appellant, then a 41-year-old postal employee, filed a notice of recurrence (Form CA-2a) alleging that an original injury of December 2, 2021 had recurred, noting that her elbow had never healed after that injury and that her continued use of her elbow had worsened its condition.¹ By letter dated April 17, 2023, OWCP informed her that based on her description of the circumstances on the Form CA-2a, a new case had been created for an occupational disease under OWCP File No. xxxxxx991.

By decision dated June 21, 2023, OWCP denied appellant's occupational disease claim, finding that the evidence of record was insufficient to establish medial epicondylitis, ulnar neuropathy, and traumatic tear of the ulnar collateral ligament of the right elbow as work related.

¹ Appellant previously filed an occupational disease claim (Form CA-2) which OWCP accepted for an elbow contusion under OWCP File No. xxxxxx138.

On July 24, 2023 OWCP received appellant's July 18, 2023 request for an oral hearing before a representative of OWCP's Branch of Hearings and Review.

By decision dated August 2, 2023, OWCP denied appellant's request for an oral hearing as untimely filed, because it was received more than 30 days after its June 21, 2023 merit decision. It further found that the issue in this case could equally well be addressed by requesting reconsideration and submitting evidence not previously considered.

The Board, having duly considered this matter, finds that the case is not in posture for decision.

OWCP's procedures provide that cases should be administratively combined when correct adjudication depends on cross-referencing between files and where two or more injuries occur to the same part of the body.² In the present claim, appellant initially claimed a recurrence of a right elbow condition, under OWCP File No. xxxxxx138. Therefore, for a full and fair adjudication, the case shall be remanded for OWCP to administratively combine OWCP File Nos. xxxxxx138 and xxxxxx991. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision. Accordingly,

IT IS HEREBY ORDERED THAT the June 21 and August 2, 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: February 22, 2024
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

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