

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

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<b>C.F., Appellant</b>	)	
	)	
<b>and</b>	)	<b>Docket No. 24-0208</b>
	)	<b>Issued: February 20, 2024</b>
<b>U.S. POSTAL SERVICE, CORONADO</b>	)	
<b>STATION POST OFFICE, El Paso, TX,</b>	)	
<b>Employer</b>	)	
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*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**ORDER REMANDING CASE**

Before:  
ALEC J. KOROMILAS, Chief Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge  
JAMES D. MCGINLEY, Alternate Judge

On December 27, 2023 appellant filed a timely appeal from a July 10, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 24-0208.<sup>1</sup>

This case has previously been before the Board.<sup>2</sup> The facts and circumstances of the case as set forth in the Board's prior order are incorporated herein by reference. The relevant facts are as follows.

On May 27, 2016 appellant, then a 46-year-old customer service supervisor, filed an occupational disease claim (Form CA-2) alleging that she developed work-related stress due to factors of her federal employment, including being forced to conduct an excessive amount of work

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<sup>1</sup> The Board notes that appellant submitted additional evidence on appeal to the Board. However, the Board's *Rules of Procedure* 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.*

<sup>2</sup> *Order Reversing Case*, Docket No. 20-1366 (issued August 31, 2021).

from January 23 to June 25, 2014, in a stressful working environment. She indicated that she was “displaced” from her official assignment as the closing supervisor, while other supervisors were not subjected to similar treatment. Appellant indicated that she first became aware of her condition and its relationship to her federal employment on January 28, 2014.

On March 21, 2017 OWCP accepted appellant’s claim for major depressive disorder, recurrent, moderate.

On April 12, 2017 appellant filed claims for compensation (Form CA-7) for disability during the periods July 9, 2014 through May 21, 2015; August 15, 2015 through April 21, 2017; and continuing.

In a June 6, 2017 decision, OWCP denied appellant’s claims for compensation during the noted periods, finding that the evidence of record did not provide medical reasoning that supported total temporary disability due to the accepted condition of major depressive disorder, recurrent, moderate.

On March 14, 2018 appellant requested reconsideration.

By decision dated March 27, 2018, OWCP denied modification of the June 6, 2017 decision.

On April 20, 2018 OWCP issued a notice of proposed rescission of its acceptance of the claim and advised appellant that the claim was accepted in error. It explained that a March 6, 2017 report from Dr. Leonard Lawrence, a Board-certified psychiatrist and the second opinion physician, indicated that appellant’s condition was based on the perception of racial discrimination, which is not a compensable factor of employment. OWCP afforded appellant 30 days to submit additional evidence and argument challenging the proposed rescission.

On May 7, 2018 appellant requested reconsideration. In a June 18, 2018 decision, OWCP denied modification of the March 27, 2018 decision regarding her claims for disability from work.

On June 11, 2019 appellant, through counsel, requested reconsideration. Counsel submitted additional evidence and argued that the June 18, 2018 OWCP decision was erroneous because it was a joint decision that rescinded acceptance of the claim and denied the claim for wage-loss compensation.

By decision dated January 8, 2020, OWCP denied modification of the June 18, 2018 decision. It informed appellant that she should request that “the [c]laims examiner issue a [f]inal [d]ecision regarding the rescission or a letter that the evidence in file does not support a rescission regarding the ‘Notice of Proposed Rescission’ dated April 20, 2018.”

On July 1, 2020 appellant, through counsel, filed a timely appeal to the Board from the January 8, 2020 OWCP decision.

By decision dated August 31, 2021, the Board issued an Order Reversing Case.<sup>3</sup> The Board explained that OWCP did not issue a formal decision rescinding acceptance of the claim pursuant to its procedures. Therefore, the Board concluded that OWCP did not meet its burden of proof to rescind acceptance of appellant's May 27, 2016 claim. The Board noted that appellant had a prior claim dated April 2, 2003, in OWCP File No. xxxxxx555, for an emotional condition in which appellant alleged that management was biased in the promotion process, and that she suffered harassment from her coworkers. The Board further noted that on September 15, 2004 OWCP denied the claim in OWCP File No. xxxxxx555, and denied modification on October 6, 2004.

On October 12, 2021 OWCP accepted the January 28, 2014 claim for major depressive disorder, recurrent, moderate, under the current OWCP File No. xxxxxx124.

On March 7, 2022 OWCP issued a notice of proposed rescission, finding that the weight of medical evidence rested with the March 6, 2017 report from the second opinion physician, Dr. Lawrence. By decision dated April 13, 2022, it rescinded the acceptance of appellant's claim for major depressive disorder.

On April 13, 2023 appellant requested reconsideration and submitted additional evidence.

By decision dated July 10, 2023, OWCP denied modification of the April 13, 2022 decision.

The Board has duly considered the matter and finds that this case is not in posture for decision.<sup>4</sup>

OWCP's procedures provide that cases should be administratively combined when correct adjudication of the issues depends on frequent cross-referencing between files.<sup>5</sup> For example, if a new injury claim is reported for an employee who previously filed a claim for a similar condition of the same part of the body, doubling is required.<sup>6</sup> Herein, appellant has an occupational disease claim under OWCP File No. xxxxxx555 for an emotional condition as of April 3, 2003, and an occupational disease claim under the current OWCP File No. xxxxxx124 for an emotional condition as of January 28, 2014, both of which relate to alleged discriminatory treatment of appellant by the employing establishment.

Therefore, for full and fair adjudication, the case must be remanded to OWCP to administratively combine the current case record in OWCP File No. xxxxxx124 with the case

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<sup>3</sup> *Id.*

<sup>4</sup> *Order Remanding Case, J.L.*, Docket No. 21-0958 (issued April 26, 2023).

<sup>5</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8c (February 2000).

<sup>6</sup> *Id.*; *Order Remanding Case, H.B.*, Docket No. 20-1298 (issued November 22, 2021); *Order Remanding Case, S.G.*, Docket No. 21-0396 (issued September 27, 2021).

record in OWCP File No. xxxxxx555. This will allow OWCP to consider all relevant reports and accompanying evidence in developing the current claim.<sup>7</sup>

The Board will therefore remand the case to OWCP to combine the files. Following this and such other further development as it deems necessary, OWCP shall issue a *de novo* decision. Accordingly,

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 10, 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 20, 2024  
Washington, DC

Alec J. Koromilas, 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

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<sup>7</sup> *Order Remanding Case, K.W.*, Docket No. 22-1258 (issued March 14, 2023); *Order Remanding Case, J.W.*, Docket No. 22-1047 (issued March 14, 2023); *Order Remanding Case, J.B.*, Docket No. 22-0127 (issued February 16, 2023).