

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

N.B., Appellant

and

**DEPARTMENT OF HOMELAND SECURITY,
CUSTOMS & BORDER PROTECTION,
San Diego, CA, Employer**

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**Docket No. 26-0521
Issued: August 20, 2026**

Appearances:
Appellant, pro se
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
JANICE B. ASKIN, Judge

On May 15, 2026 appellant filed a timely appeal from a December 12, 2025 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). As more than 180 days has elapsed from OWCP's last merit decision, dated November 26, 2024, to the filing of this appeal, pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board lacks jurisdiction over the merits of this case. The Clerk of the Appellate Boards docketed the appeal as No. 26-0521.

On April 11, 2022 appellant, then a 55-year-old mission support specialist, filed a traumatic injury claim (Form CA-1) alleging that on February 14, 2021 she sustained a right shoulder injury while in the performance of duty. OWCP accepted her claim for tear or rupture of the rotator cuff of the right shoulder, traumatic impingement syndrome of the right shoulder, and adhesive capsulitis of the right shoulder.²

¹ 5 U.S.C. § 8101 *et seq.*

² OWCP assigned the present claim OWCP File No. xxxxxx856. Under OWCP File No. xxxxxx631, appellant filed an occupational disease claim (Form CA-2) which OWCP accepted for temporary aggravation of carpal tunnel syndrome of both upper extremities, ulnar neuritis of both upper extremities, radial neuritis of both upper extremities, and cervical degenerative disease. On February 4, 2009 it granted her a schedule award for 31 percent permanent impairment of the right upper extremity and 27 percent permanent impairment of the left upper extremity.

In a July 31, 2024 report, Dr. Mark T. Selecky, a Board-certified orthopedic surgeon, determined that appellant had 12 percent permanent impairment of the right upper extremity under the standards of the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*).³

On October 16, 2024 appellant filed a claim for compensation (Form CA-7) claiming a schedule award.

On November 7, 2024 OWCP referred the case to Dr. Nathan Hammel, a Board-certified orthopedic surgeon serving as an OWCP district medical adviser (DMA), to review the medical evidence of record, including the July 31, 2024 impairment rating of Dr. Selecky, and provide an opinion on permanent impairment. In a November 19, 2024 report, Dr. Hammel determined that appellant had 12 percent permanent impairment of the right upper extremity under the standards of the sixth edition of the A.M.A., *Guides*. However, he indicated that this impairment was less than the 31 percent permanent impairment of the right upper extremity for which she received a schedule award under OWCP File No. xxxxxx631.

By decision dated November 26, 2024, OWCP denied appellant's schedule award claim.

On November 28, 2025 appellant requested reconsideration of the November 26, 2024 decision. She contended that Dr. Hammel improperly determined that she was not entitled to an additional schedule award in relation to her right shoulder claim because the award he cited was for an earlier injury to the lower portion of her upper extremities. Appellant asserted that, in light of her prior accepted conditions and prior schedule awards, her injury to her right shoulder should have resulted in additional impairment to her schedule award.

By decision dated December 12, 2025, OWCP denied appellant's request for reconsideration, finding that it was untimely filed and failed to demonstrate clear evidence of error.

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 of the issues depends on frequent cross-referencing between files.⁴ 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.⁵ Appellant's claim under OWCP File No. xxxxxx631 also involved the right upper extremity and should, therefore, be administratively

³ A.M.A., *Guides* (6th ed. 2009).

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8c (February 2000).

⁵ *Id.*; *D.C.*, Docket No. 26-0400 (issued July 6, 2026); *L.G.*, Docket No. 18-1676 (issued August 22, 2019); *D.L.*, Docket No. 17-1588 (issued January 28, 2019).

combined with the present claim for a full and fair adjudication.⁶ As the Board is unable to review evidence found in OWCP File No. xxxxxx631, it is not in a position to make an informed decision.⁷

The case shall, therefore, be remanded for OWCP to administratively combine OWCP File No. xxxxxx631 with the present claim, OWCP File No. xxxxxx856. Following this and other such further development as deemed necessary, OWCP shall issue an appropriate decision. Accordingly,

IT IS HEREBY ORDERED THAT the December 12, 2025 decision 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: August 20, 2026
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

⁶ See *V.T.*, Docket No. 26-0325 (issued June 8, 2026); *C.Y.*, Docket No. 20-1079 (issued December 7, 2020); *K.T.*, Docket No. 17-0432 (issued August 17, 2018).

⁷ See *B.T.*, Docket No. 26-0391 (issued July 2, 2026); *L.H.*, Docket No. 17-1960 (issued August 16, 2018); *K.P.*, Docket No. 15-1945 (issued February 10, 2016); *M.C.*, Docket No. 15-1706 (issued October 22, 2015).