

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

M.C., Appellant)	
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)	
and)	Docket No. 25-0891
)	Issued: January 16, 2026
U.S. POSTAL SERVICE, POST OFFICE, Tampa, FL, Employer)	
)	
)	

Appearances:

Wayne Johnson, Esq., for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

On September 17, 2025 appellant, through counsel, filed a timely appeal from a March 21, 2025 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 25-0891.²

On September 3, 2021 appellant, then a 53-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on August 30, 2021 she injured her lower back, with pain radiating into the pelvis and lower extremities, when she lifted a heavy parcel and a tub of mail

¹ 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.

² The Board notes that, following the March 21, 2025 decision, OWCP received additional evidence. 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.*

while in the performance of duty.³ She stopped work on the date of injury. OWCP accepted the claim for lumbar strain. It paid appellant wage-loss compensation on the supplemental rolls commencing October 16, 2021 and on the periodic rolls commencing November 7, 2021.

In a January 13, 2022 report and work capacity evaluation (Form OWCP-5), Dr. Mark Seldes, a Board-certified family practitioner, diagnosed lumbar radiculopathy and lumbar degenerative disc disease. He indicated that appellant could perform modified work with restrictions.⁴ Appellant remained under medical treatment.

On May 23, 2022 OWCP referred appellant to Dr. William Dinenberg, a Board-certified orthopedic surgeon, for a second opinion evaluation. The May 23, 2022 statement of accepted facts (SOAF) provided to Dr. Dinenberg noted a prior traumatic injury claim under OWCP File No. xxxxxx976 for a June 6, 2012 motor vehicle collision, accepted for lumbar sprain, lumbosacral joint and ligament sprain, neck sprain, and concussion with brief loss of consciousness. In a report dated June 8, 2022, Dr. Dinenberg opined that the accepted lumbar ligament sprain under the present claim had resolved without residuals, but noted that he was not provided with medical records regarding the 2012 lumbar injury accepted under OWCP File No. xxxxxx976. He returned appellant to full duty with no restrictions but noted that “[r]estrictions remain from previous 2012 work[-]related accident.”

OWCP found a conflict of medical opinion between Dr. Seldes, for appellant, and Dr. Dinenberg, for the government, and selected Dr. Ian Blair Fries, a Board-certified orthopedic surgeon, for an impartial medical evaluation. The November 17, 2022 SOAF provided to Dr. Fries noted the accepted conditions under OWCP File No. xxxxxx976. In a January 16, 2023 report, he noted the employment injuries accepted under OWCP File Nos. xxxxxx959 and xxxxxx976, and reviewed medical records dated from 2012 through 2014. Dr. Fries opined that the accepted lumbar spine ligament sprain has resolved. He returned appellant to full-time work with restrictions.⁵ In a July 15, 2023 supplemental report, Dr. Fries opined that the lumbar sprain accepted as a result of the accepted August 30, 2021 employment injury had resolved, and that any aggravation of the accepted June 12, 2012 degenerative lumbosacral spondylosis caused by the August 30, 2021 employment injury had resolved. He concluded that the residuals of the June 6, 2012 employment injury “continue to support the limited work duties” that appellant performed prior to the accepted August 30, 2021 employment injury.

³ OWCP assigned the present claim OWCP File No. xxxxxx959. Appellant previously filed a Form CA-1 on June 9, 2012 for a June 6, 2012 injury sustained in a motor vehicle collision while in the performance of duty, which OWCP accepted under OWCP File No. xxxxxx976 for lumbar sprain, lumbosacral joint and ligament sprain, neck sprain, and concussion with brief loss of consciousness. Appellant’s claims were not administratively combined by OWCP as of the issuance of the March 21, 2025 decision.

⁴ In a June 2, 2022 report, Dr. Robert C. Nucci, a Board-certified orthopedic surgeon, noted a history of a 2012 motor vehicle collision and a second August 30, 2021 occupational injury, treated with a caudal epidural steroid injection on October 29, 2021, and a minimally invasive lumbar facet laser transection on February 25, 2022. He recommended an endoscopic L5-S1 discectomy.

⁵ Appellant returned to part-time modified duty effective March 2, 2023.

By notice dated August 15, 2023 and finalized September 18, 2023, OWCP terminated appellant's wage-loss compensation and medical benefits effective September 18, 2023. It found that Dr. Fries' opinion as impartial medical examiner constituted the special weight of the medical evidence, establishing that appellant no longer had disability or residuals causally related to the accepted August 30, 2021, employment injury.

On October 18, 2023 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review, held January 8, 2024. At the hearing, counsel requested that OWCP administratively combine OWCP File No. xxxxxx976 with the present claim. OWCP received additional medical evidence.

By decision dated March 7, 2024, OWCP's hearing representative affirmed the September 18, 2023 OWCP decision. The hearing representative noted that OWCP File No. xxxxxx976 remained closed for further wage-loss compensation or medical benefits until exhaustion of a third-party surplus. The hearing representative directed appellant to pursue any action on residuals of the 2012 employment injury under OWCP File No. xxxxxx976.

On March 7, 2025 appellant, through counsel, requested reconsideration of OWCP's March 7, 2024 decision. He again requested that OWCP administratively combine OWCP File No. xxxxxx976 with the present claim.

By decision dated March 21, 2025, OWCP denied appellant's request for reconsideration of the merits of the claim pursuant to 5 U.S.C. § 8128(a).

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, including when similar conditions are claimed in such cases.⁶ This allows OWCP to consider all relevant claim files in developing a given claim.⁷ Appellant's claim under OWCP File No. xxxxxx976 also involved the lower back, and should therefore be administratively combined with the present claim for a full and fair adjudication.⁸ This will allow OWCP to consider all relevant reports and accompanying evidence in developing appellant's claim.⁹

⁶ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8c (February 2000).

⁷ *Id.*

⁸ See *Order Remanding Case, S.B.*, 25-0797 (issued November 26, 2025); *Order Remanding Case, M.K.*, Docket No. 25-0184 (issued February 18, 2025); *Order Remanding Case, J.L.*, Docket No. 24-0785 (issued November 1, 2024); *Order Remanding Case, M.T.*, Docket No. 24-0753 (issued September 23, 2024); *Order Remanding Case, K.W.*, Docket No. 22-1258 (issued March 14, 2023).

⁹ *Id.* See also *K.G.*, Docket No. 21-0068 (issued July 29, 2022); *D.J.*, Docket No. 20-0997 (issued November 20, 2020); *S.D.*, Docket No. 19-0590 (issued August 28, 2020).

The case shall, therefore, be remanded for OWCP to administratively combine OWCP File No. xxxxxx976, with the present claim under OWCP File No. xxxxxx959. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision. Accordingly,

IT IS HEREBY ORDERED THAT the March 21, 2025 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: January 16, 2026
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board