

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

<p><b>W.B., Appellant</b></p> <p><b>and</b></p> <p><b>U.S. POSTAL SERVICE, POST OFFICE, Los Angeles, CA, Employer</b></p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p><b>Docket No. 15-1751</b></p> <p><b>Issued: March 8, 2016</b></p>
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<p><i>Appearances:</i></p> <p><i>Appellant, pro se</i></p> <p><i>Office of Solicitor, for the Director</i></p>	<p><i>Case Submitted on the Record</i></p>
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**ORDER REMANDING CASE**

Before:  
CHRISTOPHER J. GODFREY, Chief Judge  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
COLLEEN DUFFY KIKO, Judge

On August 18, 2015 appellant filed a timely appeal of a July 30, 2015 merit decision of the Office of Workers' Compensation Programs (OWCP) denying his consequential injury claim for cervical spine injury. The Board docketed the appeal as 15-1751.

On September 10, 2014 appellant filed a traumatic injury claim (Form CA-1) alleging that exercises in physical therapy for his accepted arm condition aggravated a pinched nerve in his neck at C5-6. OWCP denied this claim by decision dated November 6, 2014, finding that appellant had not submitted sufficient medical evidence to establish a causal relationship between his diagnosed cervical condition and his accepted arm injury. Appellant requested an oral hearing. In a decision dated July 30, 2015, OWCP's hearing representative denied appellant's consequential injury claim, but referenced facts and medical evidence from his original injury claim, No. xxxxxx084 when deciding to deny the current claim.

The Board, having duly considered the matter, concludes that the case is not in posture for decision. OWCP procedures provide that cases should be combined when correct

adjudication of the issues depends on frequent cross-reference between files.<sup>1</sup> In the instant case, appellant filed a consequential injury claim, which OWCP treated as a new traumatic injury. OWCP thereafter denied the traumatic injury claim for failure to establish causal relationship, finding that appellant had not submitted sufficient medical and factual evidence to establish that his activities during physical therapy caused his cervical condition. The Board notes that, by decision dated July 30, 2015, the hearing representative found that the case should never have been handled as a traumatic injury claim as appellant was in physical therapy at the time of the incident and could not have been in the performance of duty. Rather it should have been developed as a consequential injury under No. xxxxxx084.

The hearing representative then reviewed the record as a consequential injury claim and found the medical evidence failed to meet appellant's burden of proof. The hearing representative discussed the evidence of the prior claim to which the Board has no access. The hearing representative directed OWCP to combine appellant's original and consequential injury claims upon return of the record.<sup>2</sup> However, upon review of the case record, the Board notes that the files are not combined. The Board is unable to determine whether all of the pertinent evidence reviewed by the hearing representative in denying appellant's consequential injury claim is in the record currently before the Board.

As the record before the Board does not contain the evidence from the prior claim, the Board is unable to properly adjudicate the issue of appellant's consequential injury claim. The Board finds that the case is not in posture for a decision as the record before the Board is incomplete and would not permit an informed adjudication of the case by the Board. The case must be remanded to OWCP to combine the files and for further reconstruction and assemblage deemed necessary, to be followed by an appropriate *de novo* decision.

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<sup>1</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance & Management*, Chapter 2.400.8(c) (February 2000).

<sup>2</sup> *M.M.*, Docket No. 14-0617 (issued September 25, 2015) (finding that in a consequential injury claim, the case records should be combined).

**IT IS HEREBY ORDERED THAT** the July 30, 2015 decision of the Office of Workers' Compensation Programs is set aside and the case remanded for further proceedings consistent with this order of the Board.

Issued: March 8, 2016  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board