

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

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**V.B., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Glenview, IL, Employer**

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**Docket No. 18-0187  
Issued: April 4, 2019**

*Appearances:*

*Alan J. Shapiro, Esq., for the appellant<sup>1</sup>  
Office of Solicitor, for the Director*

*Case Submitted on the Record*

**ORDER REMANDING CASE**

Before:

CHRISTOPHER J. GODFREY, Chief Judge  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
ALEC J. KOROMILAS, Alternate Judge

**JURISDICTION**

On November 13, 2017 appellant, through counsel, filed a timely appeal from an August 25, 2017 decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 18-0187.

On July 17, 2015 appellant, then a 57-year-old mail carrier, filed a traumatic injury claim (Form CA-1). She asserted that on December 27, 2012 she slipped on black ice as she stepped out of her delivery vehicle and fell backward on a concrete sidewalk, striking her shoulders, back, and all upper and lower extremities.

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<sup>1</sup> 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.

The employing establishment noted that appellant had a prior claim filed on December 28, 2012 for the same employment incident under File No. xxxxxx137, which OWCP accepted for a back contusion.<sup>2</sup> In the prior claim, appellant had not alleged shoulder, arm, or leg injuries. The employing establishment also contended that appellant had newly claimed that the December 27, 2012 employment incident had caused shoulder injuries because OWCP had denied her claim under File No. xxxxxx536 for a left shoulder condition sustained on or before September 15, 2013.

By decision dated October 5, 2015, OWCP denied appellant's claim, finding that the evidence of record was insufficient to establish that the December 27, 2012 incident occurred as alleged.

On October 4, 2016 appellant, through counsel, requested reconsideration and submitted additional medical evidence.

By decision dated November 25, 2016, OWCP modified its prior decision to accept that the December 27, 2012 employment incident occurred at the time, place, and in the manner alleged. It denied the claim, however, as the medical evidence of record was insufficient to establish causal relationship between that incident and the diagnosed shoulder injuries.

On June 5, 2017 appellant, through counsel, requested reconsideration and submitted additional medical evidence. By decision dated August 25, 2017, OWCP modified its November 25, 2016 decision and denied the claim, finding that appellant had not established that the incident occurred as alleged. OWCP advised appellant that if acceptance of her claim under OWCP File No. xxxxxx137 should be expanded to include her right arm condition, she should submit the necessary medical evidence under OWCP File No. xxxxxx137.

The Board finds that OWCP File No. xxxxxx395 is a duplicate of OWCP File No. xxxxxx137. Appellant has alleged in both claims that one incident on December 27, 2012 caused her injuries. OWCP's procedures provide that a duplicate case should be deleted from the system and further development of the claim should proceed under the initial claim number.<sup>3</sup>

As the factual evidence of record establishes that this claim pertains to the same accepted December 27, 2012 incident under OWCP File No. xxxxxx137, the claim for additional upper extremity conditions should have been developed under xxxxxx137. The evidence received under OWCP File No. xxxxxx395 should be placed in OWCP File No. xxxxxx137. Upon return of the case record, OWCP shall follow its procedures for deletion of OWCP File No. xxxxxx395 and after such further development as necessary, issue a *de novo* decision under OWCP File No. xxxxxx137.

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<sup>2</sup> Appellant filed a traumatic injury claim on December 28, 2012 under OWCP File No. xxxxxx137. OWCP combined File No. xxxxxx137 under master File No. xxxxxx849, accepted for right lower extremity and lumbar injuries sustained on July 18, 2012.

<sup>3</sup> Federal (FECA) Procedure Manual, Part 1-- Creation of Cases, *Duplicate Cases*, Chapter 1.400.7 (February 2000).

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated August 25, 2017 is set aside and this case is remanded to OWCP for further proceedings consistent with this order.

Issued: April 4, 2019  
Washington, DC

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

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

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