

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

_____	)	
<b>H.F., Appellant</b>	)	
	)	
<b>and</b>	)	<b>Docket No. 21-0114</b>
	)	<b>Issued: December 2, 2021</b>
<b>U.S. POSTAL SERVICE, POST OFFICE,</b>	)	
<b>Bunkie, LA, Employer</b>	)	
_____	)	

*Appearances:*  
Joanne M. Wright, for the appellant<sup>1</sup>  
Office of Solicitor, for the Director

*Case Submitted on the Record*

**ORDER REMANDING CASE**

Before:  
ALEC J. KOROMILAS, Chief Judge  
JANICE B. ASKIN, Judge  
PATRICIA H. FITZGERALD, Alternate Judge

On November 3, 2020 appellant, through his representative, filed a timely appeal from a September 24, 2020 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 21-0114.

On April 20, 2012 appellant, then a 58-year-old city carrier, filed an occupational disease claim (Form CA-2) alleging that he injured his back while in the performance of duty. He noted that he first became aware of his condition and its relationship to his federal employment on August 27, 2010.<sup>2</sup> Appellant stopped work on April 20, 2012. On April 12, 2013 OWCP accepted

---

<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.

<sup>2</sup> OWCP assigned the present claim OWCP File No. xxxxxx671. Appellant has prior claims, including an occupational disease claim filed on March 2, 2013 under OWCP File No. xxxxxx102. In that claim, he alleged that he sustained pain in his feet due to factors of his federal employment. On April 8, 2013 OWCP accepted that claim for bilateral plantar fibromatosis. It has administratively combined OWCP File Nos. xxxxxx 102 and xxxxxx671, with File No. xxxxxx671 designated as the master file. On September 26, 2016 appellant filed a traumatic injury claim (Form CA-1) alleging that on August 9, 2016 she sustained injuries to her arm, leg and back. OWCP assigned that claim OWCP File No. xxxxxx202 and accepted it for lumbar sprain.

the claim for lumbar sprain, lumbosacral spondylosis without myelopathy, and lumbar spinal stenosis. On September 16, 2014 it expanded the acceptance of his claim to include displacement of lumbar intervertebral disc without myelopathy, thoracic or lumbosacral neuritis or radiculitis not otherwise specified, and acquired spondylolisthesis. OWCP paid appellant wage-loss compensation for total disability from work on the supplemental rolls as of December 18, 2012 and on the periodic rolls as of June 2, 2013.

On December 29, 2015 appellant returned to a modified-duty city carrier position, working two hours per day. OWCP paid him wage-loss compensation for six hours per day for the period December 29, 2015 through August 19, 2016 on the supplemental rolls.

On September 26, 2016 appellant filed a claim for compensation (Form CA-7) for disability from work for the period February 29 through September 16, 2016. By decision dated November 22, 2016, OWCP denied appellant's claim for wage-loss compensation for the period commencing August 22, 2016, finding that the medical evidence of record was insufficient to establish disability during the claimed period due to the accepted employment injury.

Appellant filed additional Form CA-7 claims for wage-loss compensation for disability from work during the period August 22, 2016 through January 6, 2017.

Appellant, through his representative, subsequently submitted requests for reconsideration. By decisions dated February 21, 2017, February 22, 2018, and May 16, 2019, OWCP denied modification. It noted in its May 16, 2019 decision that appellant's claim under OWCP File No. xxxxxx202 would be referred for doubling and routine handling.<sup>3</sup>

On July 24, 2019 appellant, through his representative, requested reconsideration. By decision dated December 2, 2019, OWCP modified in part and vacated in part its May 16, 2019 decision, finding that the evidence of record was sufficient to authorize payment for six hours per day during the period August 22, 2016 through January 6, 2017 for a total of 600 hours of LWOP. On December 3, 2019 it issued an amended decision to reflect that the authorized payment of compensation for the period August 22, 2016 through January 6, 2017 would be issued a loss of wage-earning capacity (LWEC) determination.

On June 26, 2020 appellant, through his representative, requested reconsideration of the December 3, 2019 decision. By decision dated September 24, 2020, OWCP denied modification of its December 3, 2019 decision.

The Board has duly considered the matter and finds that this case is not in posture for decision. Under its procedures, OWCP has determined that cases should be administratively combined where a new injury case is reported for an employee who previously filed an injury claim for the same part of the body and where correct adjudication depends on cross-referencing

---

<sup>3</sup> To date, OWCP has not administratively combined OWCP File Nos. xxxxxx671 and xxxxxx202.

between files.<sup>4</sup> This will allow OWCP to consider all relevant claim files in developing this schedule award claim.<sup>5</sup>

As OWCP File No. xxxxxx202 also involves a claim for injury to appellant's back, for a full and fair adjudication, the Board will remand the case to OWCP to administratively combine the case records for File Nos. xxxxxx671 and xxxxxx202. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

**IT IS HEREBY ORDERED THAT** the September 24, 2020 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: December 2, 2021  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge  
Employees' Compensation Appeals Board

---

<sup>4</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000). *See also Order Remanding Case, M.W.*, 20-1221 (issued July 6, 2021).

<sup>5</sup> *Id.*