

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

S.J., Appellant)	
)	
and)	Docket No. 21-0633
)	Issued: December 1, 2021
U.S. POSTAL SERVICE, DALLAS POST)	
OFFICE, Dallas, TX, Employer)	
)	

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, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

On March 15, 2021 appellant filed a timely appeal from a February 9, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 21-0633.¹

On January 28, 2018 appellant, then a 58-year-old automated markup clerk, filed an occupational disease claim (Form CA-2) alleging that she developed pain, numbness and tingling in her neck, back, shoulders, and hands due to factors of her federal employment.² She indicated

¹ The record provided to the Board includes evidence received after OWCP issued its February 9, 2021 decision. 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.*

² The present claim was assigned OWCP File No. xxxxxx179. On her Form CA-2, appellant indicated that her back pain was related to her previously accepted conditions of lumbar sprain, lumbosacral radiculitis, displacement of lumbar intervertebral disc, complications of bone marrow transplant, and degeneration of lumbosacral intervertebral disc under OWCP File No. xxxxxx445. She also subsequently filed a traumatic injury claim on February 11, 2021 for pain she was experiencing in her neck, right shoulder, and back under OWCP File No. xxxxxx897. On March 26, 2021 OWCP accepted that claim for right and left shoulder effusion, an unspecified injury of the muscles/tendons of the right rotator cuff, right and left shoulder impingement syndrome, right shoulder bursitis, a strain of the muscle, fascia and tendon at neck level, and a strain of the muscles and tendons of the left shoulder rotator cuff.

that she first became aware of her condition on January 5, 2018 and first realized that it was caused or aggravated by factors of her federal employment on January 15, 2018. Appellant explained that for almost 21 years her job required her to perform repetitive motions that caused her hands, neck, and shoulders to hurt. She worked on a delivery bar code sorter machine and performed nixie taping, sorted and cased mail, keyed on machines, used a computer mouse, and lifted flat buckets within her work restrictions. Appellant did not stop work.

By decision dated December 13, 2018, OWCP accepted appellant's claim for carpal tunnel syndrome of the right and left upper limbs.

By separate decision of even date, OWCP denied appellant's claim for the additional conditions of the cervical spine, bilateral shoulders, and bilateral knees. It found that the medical evidence of record was insufficient to establish causal relationship between these additional diagnosed conditions and the accepted employment injury.

On October 21, 2019 OWCP requested that a district medical adviser (DMA) review the medical evidence of record and a statement of accepted facts (SOAF) with regard to whether appellant developed additional conditions as a consequence of her accepted employment injury.

In a November 18, 2019 medical report, Dr. Nathan Hammel, a Board-certified orthopedic surgeon serving as DMA, reviewed the medical evidence of record and the SOAF and opined that there was no discussion using scientific research to support the claim that any of appellant's alleged additional conditions were work related.

By decision dated December 16, 2019, OWCP denied the expansion of the acceptance of appellant's claim to include additional conditions, finding that the medical evidence of record was insufficient to establish that they were caused or aggravated by her accepted employment injury. On May 7, 2020 it issued a revision to its December 16, 2019 decision to illustrate the correct city and state in which she worked.

Appellant submitted additional medical evidence and, on December 16, 2020 requested reconsideration.

By decision dated February 9, 2021, OWCP denied modification of its December 16, 2019 decision.

The Board has duly considered the matter and concludes that this case is not in posture for decision. OWCP's procedures provide that cases should be administratively combined when correct adjudication of the issue(s) depends on frequent cross-referencing between files.³ For example, if a new injury is reported for an employee who previously filed a claim for a similar condition or the same part of the body, doubling is required.⁴ As noted above, appellant has a separate claim involving injuries to her back under OWCP File No. xxxxxx446. She also has a

³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000); *R.S.*, Docket No. 19-0416 (issued November 26, 2019).

⁴ *Id.*; *L.M.*, Docket No. 19-1490 (issued January 29, 2020); *L.H.*, Docket No 18-1777 (issued July 2, 2019).

claim involving injuries to her neck, right shoulder, and back under OWCP File No. xxxxxx897. OWCP, however, has not administratively combined appellant's claims.

For a full and fair adjudication of appellant's current claim, the case must be returned to OWCP to administratively combine the current case record with OWCP File Nos. xxxxxx445 and xxxxxx897.⁵ Following this and other such further development as OWCP deems necessary, it shall issue a *de novo* decision.⁶

IT IS HEREBY ORDERED THAT the February 9, 2021 decision of the Office of Workers' Compensation Programs is set aside and this case is remanded for further proceedings consistent with this order of the Board.

Issued: December 1, 2021
Washington, DC

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

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

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

⁵ *Id.*

⁶ *R.G.*, Docket No. 19-1755 (issued July 7, 2020); *L.M.*, *supra* note 4.