

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

A.Y., Appellant)	
)	
and)	Docket No. 20-1334
)	Issued: March 29, 2021
U.S. POSTAL SERVICE, LOVERS LANE)	
CARRIER ANNEX, Visalia, CA, 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 June 11, 2020 appellant filed a timely appeal from a March 31, 2020 nonmerit decision of the Office of Workers' Compensation Programs (OWCP).¹ The Clerk of the Appellate Boards docketed the appeal as No. 20-1334.

On July 1, 2019 appellant, then a 50-year-old city carrier, filed an occupational disease claim (Form CA-2) alleging that she developed discogenic cervical condition with facet inflammation, brachial plexus irritation, and lateral epicondylitis bilaterally due to factors of her federal employment. She noted that she first became aware of her conditions and their relationship to her federal employment on June 6, 2019. Appellant did not stop work.

¹ The Board notes that appellant submitted additional evidence on appeal. 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.*

In support of her claim, appellant submitted a narrative statement, dated July 20, 2019. She alleged that she sustained a neck injury on March 11, 2013² and experienced continued pain despite treatment. Appellant indicated that she felt burning, tingling, and numbness in her shoulders, arms, and hands. She noted that as a mail carrier, she was required to push, pull, and lift heavy tubs and trays of mail. Appellant also reported that she carried mail weighing between 5 and 25 pounds. She indicated that she performed her job duties 8 to 12 hours per day, 5 to 6 days per week. Appellant noted that on June 6, 2019 she was diagnosed by her physician with discogenic cervical condition with facet inflammation, brachial plexus irritation, and bilateral lateral epicondylitis.

By decision dated August 21, 2019, OWCP denied appellant's occupational disease claim, finding that she had not provided any medical evidence in support of her claim. As such, it concluded that the requirements had not been met to establish an injury as defined by FECA.

On March 10, 2020 appellant requested reconsideration. She asserted that her physicians had faxed her medical evidence to OWCP on July 24, 2019.³

By decision dated March 31, 2020, OWCP denied appellant's request for reconsideration of the merits of her claim pursuant to 5 U.S.C. § 8128(a).

The Board, having duly considered the matter, finds that this 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 case files.⁴ For example, if a new injury case is reported for an employee who previously filed an injury claim for a similar condition or the same part of the body, doubling is required.⁵ In the present claim, appellant alleged injuries to neck, shoulder, and elbows. OWCP previously accepted her claim for left cervical radiculopathy under OWCP File No. xxxxxx472. However, the evidence pertaining to OWCP File No. xxxxxx472 is not part of the case record presented before the Board. For a full and fair adjudication, the case must be returned to OWCP to administratively combine the current case record with OWCP File No. xxxxxx472, so it can consider all relevant claim files and accompanying evidence in adjudicating appellant's current occupational disease claim.

² The Board notes that on June 2, 2014 appellant had filed an occupational disease claim involving an injury to her neck. She noted that she first became aware of her condition and realized its relation to her federal employment on March 11, 2013 OWCP assigned that claim OWCP File No. xxxxxx472, and accepted it for left cervical radiculopathy.

³ Appellant noted that she was attaching medical evidence along with her reconsideration request; however, no such evidence was received.

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance & Management*, Chapter 2.400.8c (February 2000); *F.J.*, Docket No. 19-1918 (issued November 30, 2020); *R.R.*, Docket No. 19-0368 (issued November 26, 2019).

⁵ *See K.K.*, Docket No. 20-0581 (issued September 14, 2020).

Accordingly, the Board will remand the case to OWCP to administratively combine the OWCP File Nos. xxxxxx060 and xxxxxx472. Following this and such other further development as deemed necessary, OWCP shall issue a *de novo* decision.

IT IS HEREBY ORDERED THAT the March 31, 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: March 29, 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