

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

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D.H., Appellant)	
)	
and)	Docket Nos. 21-0577 and 21-
)	0867
U.S. POSTAL SERVICE, PROCESSING AND)	Issued: November 1, 2021
DISTRIBUTION CENTER, Philadelphia, PA,)	
Employer)	
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Appearances:
Russell T. Uliase, Esq., for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASES

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

On March 3, 2021 appellant, through counsel, filed a timely appeal from a January 11, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP) under OWCP File No. xxxxxx261. The Clerk of the Appellate Boards docketed the appeal as No. 21-0577. On May 20, 2021 appellant, through counsel, filed a timely appeal from a February 24, 2021 merit decision of OWCP dated under OWCP File No. xxxxxx096. The Clerk of the Appellate Boards docketed the appeal as No. 21-0867.

Under OWCP File No. xxxxxx261, appellant, then a 62-year-old mail handler equipment operator, filed an occupational disease claim (Form CA-2) on December 3, 2020 alleging that he sustained an unspecified shoulder injury due to factors of his federal employment, including

¹ 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 an 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.

extensive pushing and pulling and movement of his arms and head to move containers and skids and steer handles. He noted that he first became aware of his condition on September 28, 2019 and its relationship to his federal employment on December 14, 2019. By decision dated January 11, 2021, denied appellant's occupational disease claim, finding that the medical evidence of record did not contain a medical diagnosis in connection with the accepted factors of his federal employment. Consequently, it found that he had not met the requirements to establish an injury as defined by FECA.

Under OWCP File No. xxxxxx096, appellant previously filed a traumatic injury claim (Form CA-1) alleging that on December 12, 2017 he sustained a left upper back strain as a result of pushing and pulling bulk mail containers and all-purpose containers while in the performance of duty. On June 1, 2018 accepted that claim for left thoracic sprain and left upper arm and shoulder strains.

The Board has duly considered the matter and concludes that both cases are 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 files or when two or more injuries occur to the same part of the body.² As both OWCP File Nos. xxxxxx096 and xxxxxx261 allege injuries to appellant's left shoulder, for a full and fair adjudication, the Board finds that both cases must be returned to OWCP to administratively combine the case records. This will allow OWCP to consider all relevant claim files in adjudicating appellant's claims.³ Following this and other such further development as OWCP deems necessary, it shall issue a *de novo* decision in each of appellant's claims.

² Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000).

³ *Order Remanding Case, C.W.*, Docket Nos. 18-1764 and 19-0709 (issued August 27, 2020); *Order Remanding Case, P.G.*, Docket No. 17-1461 (issued February 7, 2019).

IT IS HEREBY ORDERED THAT the January 11 and February 24, 2021 decisions of the Office of Workers' Compensation Programs are set aside and the cases are remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: November 1, 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