

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

C.H., Appellant)

and)

DEPARTMENT OF VETERANS AFFAIRS,)
VETERANS AFFAIRS MEDICAL CENTER,)
Lexington, KY, Employer)

**Docket No. 21-0832
Issued: November 8, 2021**

Appearances:
Appellant, pro se
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 May 10, 2021 appellant filed a timely appeal from January 28 and April 1, 2021 merit decisions of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 20-0832.

On December 17, 2019 appellant, then a 47-year-old nursing assistant, filed a traumatic injury claim (Form CA-1) alleging that, on that date, she sustained a fracture of the right hand when a patient grabbed her arm and twisted her right thumb while in the performance of duty.¹ On March 22, 2010 OWCP accepted her claim for a sprain of the ulnar collateral ligament of the

¹ OWCP assigned the present claim OWCP File No. xxxxxx630. Under OWCP File No. xxxxxx353, OWCP previously accepted that on April 17, 2009 appellant sustained a right hand sprain and complex regional pain syndrome (CRPS) of the right upper extremity when a combative patient kicked and slammed appellant's hand into a bedrail. On December 14, 2010 appellant underwent OWCP-authorized insertion of a spinal cord stimulator at C4. By decision dated September 27, 2011, OWCP granted her a schedule award for 20 percent permanent impairment of the right hand. The period of the award ran for 48.8 weeks from April 8, 2011 through March 14, 2012. By decision dated September 11, 2012, OWCP issued an amended schedule award for 20 percent permanent impairment of the right shoulder in lieu of the prior schedule award for impairment of the right hand. It extended the number of weeks of compensation from 48.8 to 62.4, a difference of 13.6 weeks, covering the period March 15 through June 18, 2012.

metacarpophalangeal joint of the right thumb. On March 3, 2020 appellant filed a schedule award claim (Form CA-7).

OWCP subsequently expanded its acceptance of the present claim under OWCP File No. xxxxxx630 to include chronic pain syndrome and CRPS I of the right upper extremity.

On July 15, 2020 appellant claimed compensation (Form CA-7) for intermittent wage-loss during the period February 13 through August 6, 2010 to attend medical appointments related to the accepted conditions. By decision dated January 28, 2021, OWCP authorized compensation for four hours on March 12, 2010, but denied the remainder of the claimed hours.

By decision dated April 1, 2021, OWCP granted appellant a schedule award for two percent permanent impairment of the right upper extremity under OWCP File No. xxxxxx353. The award ran for 6.24 weeks from July 31 through September 12, 2020.

The Board, having duly considered this matter, 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 issues depends on frequent cross-referencing between files.² 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.³ In adjudicating appellant's present claim, OWCP File No. xxxxxx630, OWCP specifically referenced schedule awards for the right upper extremity in appellant's earlier claim, OWCP File No. xxxxxx353. Evidence may not be incorporated by reference, nor may evidence from another claimant's case file be used.⁴ Evidence contained in another of the claimant's case files may be used, but a copy of that evidence should be placed into the case file being adjudicated.⁵ All evidence that forms the basis of a decision must be in that claimant's case record.⁶ Therefore, for full and fair adjudication, the case shall be remanded to OWCP to administratively combine OWCP File Nos. xxxxxx630 and xxxxxx353. Following this and other such further development as deemed necessary, it shall issue *de novo* decision regarding appellant's schedule award claim and claim for compensation.

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

³ *Id.*; *R.L.*, Docket No. 20-0901 (issued July 27, 2021); *M.E.*, Docket No. 21-0094 (issued May 27, 2021); *T.T.*, Docket No. 21-0049 (issued May 3, 2021); *L.M.*, Docket No. 19-1490 (issued January 29, 2020); *L.H.*, Docket No. 18-1777 (issued July 2, 2019).

⁴ *Supra* note 2 at Chapter 2.800.5a (June 2011).

⁵ *Id.*; *R.L.*, *supra* note 3.

⁶ *Id.* See also *G.O.*, Docket No. 18-1483 (issued June 20, 2019).

IT IS HEREBY ORDERED THAT the April 1 and January 28, 2021 decisions of the Office of Workers' Compensation Programs are set aside and the case is remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: November 8, 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