

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

_____)
C.W., Appellant)

and)

DEPARTMENT OF THE TREASURY,)
INTERNAL REVENUE SERVICE, Austin, TX,)
Employer)
_____)

**Docket No. 22-1105
Issued: December 2, 2022**

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

JURISDICTION

On July 22, 2022 appellant filed a timely appeal from a January 26, 2022 merit decision and an April 26, 2022 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 22-1105.

On June 25, 2019 appellant, then a 57-year-old contact representative, filed a traumatic injury claim (Form CA-1) alleging that on June 13, 2019 she injured her right ankle when her supervisor directed her to take the long route from the ladies room to her desk, as the aisle was blocked, which caused excess pressure to her foot while in the performance of duty. She asserted that, thereafter, she was unable to stand on her right foot or walk. Appellant stopped work on June 24, 2019. On December 31, 2019 OWCP accepted the claim for sprain of the right ankle. On January 26, 2021 it expanded the acceptance of appellant's claim to include the additional conditions of lumbar disc displacement, spinal stenosis, lumbar radiculopathy, sprain of the sacroiliac joint, and low back strain. OWCP paid her wage-loss compensation on the supplemental rolls for the period July 29 through August 16, 2019.

On May 24, 2021 appellant filed a claim for compensation (Form CA-7) requesting wage-loss compensation intermittently from September 29 through December 2, 2019.

Beginning June 3, 2021, appellant filed Form CA-7 claims requesting wage-loss compensation intermittently for the period September 28, 2019 through March 8, 2020.

By decision dated July 14, 2021, OWCP denied appellant's claims for compensation for disability from work for the period September 28, 2019 through March 8, 2020, finding that the medical evidence of record was insufficient to establish disability from work during the claimed period causally related to the accepted employment injury.

On July 28, 2021 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review, which was held on December 1, 2021. By decision dated January 20, 2022, OWCP's hearing representative affirmed the July 14, 2021 decision. OWCP's Branch of Hearings and Review also directed OWCP to administratively combine the present claim with appellant's prior claim for lumbar sprain, sacroiliitis, intervertebral disc displacement of the lumbar spine, spinal stenosis, lumbar radiculopathy, low back sprain, and sacroiliac joint sprain, in OWCP File No. xxxxxx628.

By decision dated January 26, 2022, OWCP denied appellant's May 24, 2021 claim for compensation for disability for the period September 29 through December 2, 2019.

On January 26, 2021 appellant requested reconsideration of the January 20, 2022 OWCP's hearing representative's decision.

By decision dated April 26, 2022, OWCP denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

The Board has duly considered the matter and finds that this case is not in posture for decision.

OWCP's procedures provide that cases should be administratively combined where correct adjudication depends on cross-referencing between files and where two or more injuries occur to the same part of the body.¹ 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.² The evidence of record indicates that appellant had prior accepted injuries to her low back in OWCP File No. xxxxxx628. Her claims, however, have not been administratively combined by OWCP. Therefore, for a full and fair adjudication, the case must be remanded for OWCP to administratively combine the current case record with OWCP File No. xxxxxx628.³

¹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8c (February 2000).

² *Id.*; *Order Remanding Case, K.B.*, Docket No. 21-1112 (issued June 22, 2022); *Order Remanding Case, D.C.*, Docket No. 19-0100 (issued June 3, 2019); *Order Remanding Case, N.M.*, Docket No. 18-0833 (issued April 18, 2019); *Order Remanding Case, K.T.*, Docket No. 17-0432 (issued August 17, 2018).

³ *Id.*

Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision on the merits of the claim. Accordingly,

IT IS HEREBY ORDERED THAT the April 2 and January 26, 2022 decisions of the Office of Workers' Compensation Programs are set aside, and the case is remanded for further proceedings consistent with this order of the Board.

Issued: December 2, 2022
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

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