



fall. Appellant noted that his accepted claim for his vaccine injury caused continuous back pain, stability issues, eye issues, and auto-immune issues.<sup>1</sup>

In a report dated November 10, 2022, Dr. Jeffrey Gao, Board-certified in occupational medicine, diagnosed adverse effect or other viral vaccine effect.

In a January 5, 2023 claimant response form, appellant explained that he had balance issues from his prior vaccine claim which affected him when walking the rail tracks inspecting the railcars at work.

In a December 15, 2022 statement, appellant explained that he had an accepted claim for adverse effect of viral vaccine, and that his medical condition affected his blood pressure, balance, stamina, edema in the hands, and grip. He noted that his blood pressure was tracked as it affected his stability and that his last reading was elevated. Appellant recounted the facts and circumstances surrounding his alleged employment injury of October 25, 2022. He noted that he immediately reported the incident to his supervisor and a physician who provided him with work restrictions. Appellant further noted that his vaccine injury “has always been intermittent. Due to the Adverse Effect, I suffer many complications with eyesight, balance, stamina, grip, dexterity, blood pressure requiring medication and physical therapy.”

In a January 5, 2023 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of medical and factual evidence necessary to establish his claim and provided a questionnaire for his completion. OWCP also requested additional information from the employing establishment. It afforded both parties 30 days to submit the necessary information.

OWCP received an October 25, 2022 report wherein Dr. Gao diagnosed lumbar spine sprain and bilateral wrist joint pain. Dr. Gao placed appellant on modified duty.

By decision dated February 15, 2023, OWCP denied appellant’s claim. It found that the medical evidence did not demonstrate that the claimed employment injury and/or medical condition was caused by the accepted October 25, 2022 employment incident.

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 files.<sup>2</sup> For example, if a

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<sup>1</sup> Appellant has an accepted traumatic injury claim (Form CA-1) for a February 25, 2021 injury causing adverse effect of viral vaccine. OWCP assigned the claim OWCP File No. xxxxxx947.

<sup>2</sup> See Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8c (February 2000); see *J.M.*, Docket No. 22-0333 (issued July 1, 2022); *K.K.*, Docket No. 20-0581 (issued September 14, 2020).

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.<sup>3</sup>

Regarding alleged consequential injuries, in discussing the range of compensable consequences, once the primary injury is causally connected with the employment, the question is whether compensability should be extended to a subsequent injury or aggravation related in some way to the primary injury. The basic rule is that a subsequent injury, whether an aggravation of the original injury or a new and distinct injury, is compensable if it is the direct and natural result of a compensable primary injury.<sup>4</sup>

In his November 10, 2022 report, Dr. Gao diagnosed adverse effect or other viral vaccine effect. In his statement December 15, 2022, appellant indicated that his fall at work was due to medical conditions that resulted from his vaccine injury on February 25, 2021. He noted that his vaccine injury affected his eyesight, balance, stamina, grip, dexterity, and blood pressure, resulting in his fall.

As such, the Board finds that appellant's claims under OWCP File Nos. xxxxxx085 and xxxxxx947 are related as appellant indicated that his fall at work in the new File No. xxxxxx085 caused medical conditions resulting from his prior vaccine injury in File No. xxxxxx947. Therefore, for a full and fair adjudication, this case must be remanded to OWCP to administratively combine OWCP File Nos. xxxxxx085 and xxxxxx947. This will allow OWCP to consider all of the relevant claim files and accompanying evidence in developing appellant's combined compensation claims. Following this and such further development as deemed necessary, OWCP shall issue *de novo* merit decisions regarding appellant's claims. Accordingly,

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<sup>3</sup> *Id.*; *D.C.*, Docket No. 19-0100 (issued June 3, 2019); *N.M.*, Docket No. 18-0833 (issued April 18, 2019); *K.T.*, Docket No. 17-0432 (issued August 17, 2018).

<sup>4</sup> *See C.H.*, Docket No. 20-0228 (issued October 7, 2020); *see also K.S.*, Docket No. 17-1583 (issued May 10, 2018).

**IT IS HEREBY ORDERED THAT** the February 15, 2023 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: August 28, 2023  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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