

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

J.D., Appellant)	
)	
and)	Docket No. 24-0044
)	Issued: April 22, 2024
U.S. POSTAL SERVICE, POST OFFICE,)	
Landover, MD, Employer)	
)	

Appearances: *Case Submitted on the Record*
Daniel M. Goodkin, Esq., for the appellant¹
Office of Solicitor, for the Director

ORDER REMANDING CASE

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

On October 27, 2023 appellant, through counsel, filed a timely appeal from a June 27, 2023 nonmerit decision of the Office of Workers’ Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 24-0044.

On May 13, 2016 appellant, then a 52-year-old attorney, filed an occupational disease claim (Form CA-2) alleging that she sustained adjustment disorder, chronic insomnia, sleep deprivation, elevated blood pressure, difficulty concentrating, and anxiety due to factors of her federal employment.² Specifically, she attributed her condition to the discontinuation of her reasonable accommodations, which caused a significant exacerbation of her conditions, all of

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 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.

² The record reflects that appellant has a prior claim under OWCP File No. xxxxxx1 12, wherein appellant alleged that on May 13, 2016 she sustained employment-related stress while in the performance of duty. Appellant’s claims have not been administratively combined.

which negatively impacted the control of her diabetes. Appellant noted that she first became aware of her claimed condition on February 12, 2014 and first realized its relation to her federal employment on April 27, 2016. She stopped work on May 13, 2016. On the reverse side of the form, L.G., appellant's supervisor, controverted the claim.

In a June 15, 2016 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 30 days to respond.

In a July 14, 2016 response to OWCP's development letter, appellant discussed the factors that she considered to have resulted in her condition.

By decision dated November 18, 2016, OWCP denied appellant's claim, finding that she had not established a compensable employment factor. Therefore, it concluded that the requirements had not been met to establish an emotional condition in the performance of duty.

On November 30, 2016 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review and submitted additional evidence in support of her claim.

A hearing was held on May 31, 2017.

By decision dated October 26, 2017, OWCP's hearing representative set aside the November 18, 2016 decision and remanded the case for further development. She found that although appellant had not established any compensable factors of employment, additional development was required pertaining to appellant's allegations that she was overworked with larger case assignments than the other attorneys in her office. By *de novo* decision dated April 25, 2018, OWCP denied appellant's emotional/stress-related condition, finding that she did not establish a compensable employment factor.

On May 23, 2018 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. A hearing was held on November 16, 2018.

Appellant submitted additional evidence in support of her claim.

By decision dated February 25, 2019, OWCP's hearing representative affirmed the April 25, 2018 decision.

On February 7, 2020 appellant requested reconsideration of the February 25, 2019 decision. She submitted additional evidence and argument pertaining to her employment-related emotional/stress-related conditions.

By decision dated May 7, 2020, OWCP denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

On June 13, 2023 appellant requested reconsideration. In a June 12, 2023 statement, she argued that she was incapacitated as a result of the work-related events, that she was unable to request reconsideration as she had become nonfunctional, and that her nonfunctional condition

forced her to go on disability retirement. Appellant further described her allegations that management mishandled administrative and personnel matters and subjected her to harassment and discrimination.

By decision dated June 27, 2023, OWCP summarily denied appellant's request for reconsideration, finding that it was untimely filed and failed to demonstrate clear evidence of error.

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

OWCP summarily denied appellant's request for reconsideration without complying with the review requirements of FECA and its implementing regulations.³ Section 8124(a) of FECA provides that OWCP shall determine and make a finding of facts and make an award for or against payment of compensation.⁴ Its regulations at 20 C.F.R. § 10.126 provide that the decision of the Director of OWCP shall contain findings and facts and a statement of reasons.⁵ As well, OWCP's procedures provide that the reasoning behind OWCP's evaluation should be clear enough for the reader to understand the precise defect of the claim and the kind of evidence, which would overcome it.⁶

OWCP, in its June 27, 2023 decision, did not discharge its responsibility to set forth findings of fact, and a clear statement of reasons explaining the disposition so that appellant could understand the basis for its decision that the evidence submitted in connection with the request for reconsideration did not demonstrate clear evidence of error in the February 25, 2019 decision.⁷ This case must therefore be remanded to OWCP for an appropriate decision on appellant's request for reconsideration that describes the evidence submitted on reconsideration and provides detailed reasons for accepting or rejecting the request for reconsideration pursuant to the relevant standards.⁸

The Board will therefore set aside OWCP's June 27, 2023 decision and remand the case for findings of fact and a statement of reasons, to be followed by an appropriate decision on appellant's reconsideration request.⁹ Accordingly,

³ See *Order Remanding Case, R.G.*, Docket No. 23-0011 (issued June 14, 2023); *Order Remanding Case, C.G.*, Docket No. 20-0051 (issued June 29, 2020); *Order Remanding Case, T.P.*, Docket No. 19-1533 (issued April 30, 2020); see also 20 C.F.R. § 10.607(b).

⁴ 5 U.S.C. § 8124(a).

⁵ 20 C.F.R. § 10.126.

⁶ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.5 (February 2013) (all decisions should contain findings of fact sufficient to identify the benefit being denied and the reason for the disallowance).

⁷ *D.M.*, Docket 23-1154 (issued February 29, 2024).

⁸ *Id.*; *R.T.*, Docket No. 19-0604 (issued September 13, 2019).

⁹ See *Order Remanding Case, D.R.*, Docket No. 21-1229 (issued July 6, 2022); *T.P.*, *supra* note 3.

IT IS HEREBY ORDERED THAT the June 27, 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: April 22, 2024
Washington, DC

Alec J. Koromilas, Chief Judge
Employees Compensation Appeals Board

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

Janice B. Askin, Judge
Employees Compensation Appeals Board