

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

P.P., Appellant)

and)

U.S. POSTAL SERVICE, MID-ISLAND)
PROCESSING & DISTRIBUTION CENTER,)
Melville, NY, Employer)

**Docket Nos. 25-0118, 25-0119
Issued: December 10, 2024**

Appearances:
Thomas S. Harkins, Esq., for the appellant¹
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

On November 15, 2024 appellant, through counsel, filed a timely appeal from a May 30, 2024 merit decision of the Office of Workers' Compensation Programs (OWCP) under OWCP File No. xxxxxx658.² The Clerk of the Appellate Boards assigned the appeal Docket No. 25-0118. Also, on November 15, 2024, appellant, through counsel, filed a timely appeal from a July 25, 2024 merit decision of OWCP under OWCP File No. xxxxxx725. The Clerk of the Appellate Boards assigned that appeal Docket No. 25-0119.

Under OWCP File No. xxxxxx658, on May 6, 2023 appellant, then a 34-year-old tractor trailer operator, filed an occupational disease claim (Form CA-2) alleging that she experienced a

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 Board notes that, following May 30, 2024 decision, OWCP received additional evidence. The Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

panic attack due to factors of her federal employment, including harassment by a supervisor. She noted that she first became aware of her claimed condition and realized its relationship to her federal employment on January 22, 2021. Appellant did not stop work. In support of the claim, she submitted statements, which described alleged incidents of harassment by her supervisor beginning in October 2019, and medical reports, which described treatment for a panic attack, depression, and anxiety from January 22, 2021 through November 1, 2022. By decision dated May 30, 2024, OWCP denied appellant's January 22, 2021 occupational disease claim, finding that she had not established any compensable employment factors under FECA. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

Under OWCP File No. xxxxxx725, on May 13, 2023, appellant filed a Form CA-2 alleging that she experienced cardiac symptoms due to factors of her federal employment, including being yelled at and harassed by a supervisor. She noted that she first became aware of her claimed condition and realized its relationship to her federal employment on April 12, 2023. Appellant stopped work on May 12, 2023. She submitted statements, which described claimed incidents of harassment by her supervisor beginning on October 22, 2022, and medical reports for treatment of chest pain, stress reaction, depression, and anxiety from April 12 through May 17, 2023. By decision dated July 25, 2024, OWCP denied appellant's April 12, 2023 occupational disease claim, finding that she had not established any compensable employment factors under FECA.

The Board has duly considered these matters and finds that these cases are not in posture for decision.

OWCP's procedures provide that cases should be administratively combined when correct adjudication depends on frequent cross-referencing between files, including when similar conditions are claimed in such cases.³ This allows OWCP to consider all relevant claim files in developing a given claim.⁴ As appellant's claims under OWCP File Nos. xxxxxx658 and xxxxxx725 both involve alleged harassment by a supervisor and treatment for anxiety, depression, and stress reaction, these claims should be administratively combined for a full and fair adjudication.⁵

The Board shall, therefore, set aside the May 30 and July 25 decisions and remand the case for OWCP to administratively combine OWCP File Nos. xxxxxx658 and xxxxxx725 and to consider whether OWCP File No. xxxxxx725 constitutes a duplicate claim. This will allow OWCP to avoid piecemeal adjudication of the issues in these cases and raise the possibility of inconsistent

³ *Id.*; *Order Remanding Case, B.M.*, Docket Nos. 23-0426, 23-0427, 23-0428 (issued September 20, 2023); *S.G.*, Docket No. 21-0396 (issued September 27, 2021); *R.L.*, Docket No. 20-0901 (issued July 27, 2021); *M.E.*, Docket No. 21-0094 (issued May 27, 2021); *L.M.*, Docket No. 19-1490 (issued January 29, 2020); *L.H.*, Docket No 18-1777 (issued July 2, 2019).

⁴ *Id.*; *see Order Remanding Case, M.T.*, Docket No. 24-0753 (issued September 23, 2024).

⁵ *M.T.*, *id.*; *see Order Remanding Case, K.W.*, Docket No. 22-1258 (issued March 14, 2023).

results. It is the Board's policy to avoid such an outcome.⁶ Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.⁷ Accordingly,

IT IS HEREBY ORDERED THAT the May 30 and July 25, 2024 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 10, 2024
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

⁶ See *Order Remanding Case, J.F.*, Docket No. 24-0402 (issued June 4, 2024); *M.S.*, Docket No. 13-1024 (issued January 14, 2014); *William T. McCracken*, 33 ECAB 1197 (1982).

⁷ *M.B.*, Docket No. 20-0770 (issued January 5, 2021); *R.G.*, Docket No. 19-1755 (issued July 7, 2020); *L.M.*, Docket No. 19-1490 (issued January 29, 2020).