

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

M.B., Appellant)	
)	
and)	Docket No. 25-0140
)	Issued: December 19, 2024
DEPARTMENT OF VETERANS AFFAIRS,)	
NORTHEAST CONSOLIDATED PATIENT)	
ACCOUNT CENTER, Lebanon, PA, Employer)	
)	

Appearances:
Capp Taylor, 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 26, 2024 appellant, through counsel, filed a timely appeal from an October 10, 2024 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 25-0140.

On April 17, 2024 appellant, then a 56-year-old nurse, filed an occupational disease claim (Form CA-2) alleging that she developed neck and upper extremity pain, numbness, tingling, and inability to move due to factors of her federal employment. She alleged that she sustained repetitive trauma due to her daily work activities including sitting at the computer and entering and keying information. Appellant noted that she first became aware of her condition on February 1, 2024, and realized its relation to her federal employment on April 1, 2024. She did not stop work.

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 an 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.

In an April 12, 2024 statement, appellant noted that during the prior 10 plus years, she had been a utilization review nurse at the employing establishment. She related that her job entailed sitting at a computer and typing or keying virtually the entire day, 40 hours per week. Appellant explained that on or about February 11, 2024, she noticed numbness and tingling in both arms and hands and soreness in the neck and that the sensations continued to date. Additionally, she noted that she was experiencing pain in her right arm and hand. Appellant explained that she previously had lower back problems, but had no such problems with her neck, arms, or hands. OWCP assigned OWCP File No. xxxxxx523.

Appellant has a June 23, 2008 traumatic injury claim (Form CA-1) accepted under OWCP File No. xxxxxx137 for lumbar disc degeneration and lumbosacral disc disease; an occupational disease claim under OWCP File No. xxxxxx325 accepted on September 1, 2009 for a lumbar sprain; and a denied occupational disease claim under OWCP File No. xxxxxx808 for left wrist pain due to computer use as of February 8, 2016.

In support of her current claim, appellant submitted reports from her treating providers. In April 8 and 11, 2024 reports, Dr. Jack Smith, Board-certified in pain medicine and physical medicine and rehabilitation, assessed chronic pain syndrome, cervical radiculopathy, bilateral sacroiliitis, and sacroiliac (SI) joint arthritis.

OWCP received an April 19, 2024 report from Dr. David H. Kramer, a Board-certified diagnostic radiologist, regarding cervical and lumbar injections and a myelogram for a clinical indication of lumbar radiculopathy, previous history of fusion, and cervical spinal stenosis with radiculopathy.

In an April 29, 2024 report, Dr. Smith noted that appellant had an extensive medical history, which included preexisting conditions involving her lumbar spine and that she was status post lumbar fusion. He also noted that she had chronic lower back pain and sciatica and suffered from degeneration of the lumbosacral spine, but had not experienced any symptoms regarding the neck or bilateral upper extremities until on or about February 11, 2024. Dr. Smith explained that the most common cause of spinal stenosis was wear and tear in the spine. He opined that her job duties of sitting, typing, and keying all day, would produce wear and tear on the cervical spine by maintaining a constant position and would contribute to if not cause the herniation, spinal stenosis, and degenerative condition of the cervical spine. Dr. Smith opined that the fact that these symptoms worsened while sitting, keying and typing supported the opinion that the work activities at least contributed to an underlying cervical disc degenerative condition, disc herniation, and stenosis, if not being the direct cause of the conditions.

In a letter dated May 10, 2024, the employing establishment controverted the claim, noting that appellant had a claim for left wrist pain due to computer use for which she filed a Form CA-2 on February 9, 2016. The employing establishment also noted that appellant had an Abbott thoracic spinal cord stimulator implanted which, per the clinic, has a side effect of “tingling and prickling of the skin.”

By decision dated June 24, 2024, OWCP denied appellant’s claim. It explained that her April 12, 2024 statement alleged that she had prior lower back problems, but not problems with her neck, arm, or hand. However, OWCP noted that the employing establishment confirmed that

appellant had previously filed an occupational disease claim under OWCP File No. xxxxxx808 for a left wrist injury as of February 8, 2016 due to computer use.² It determined that appellant's signed statement that she had never had any problems with "either arm or hand" did not coincide with the prior records and did not accurately reflect the factual circumstances of the case.

In a report dated June 18, 2024, Dr. Perry Argires, a Board certified neurosurgeon, related that on June 17, 2024 appellant underwent an anterior C5-6 discectomy with arthroplasty, and right carpal tunnel release.

On September 5, 2024 counsel for appellant requested reconsideration.

OWCP received a September 1, 2024 medical report from Dr. Argires which recounted that appellant had an extensive medical history, including preexisting conditions involving her lumbar spine, and that she was status post lumbar fusion. Dr. Argires also noted that appellant had chronic lower back pain and sciatica and degeneration of the lumbosacral spine. He opined that appellant "had not experienced any symptoms regarding her back or bilateral upper extremities until on or about February 11, 2024." Dr. Argires related that appellant was experiencing bilateral upper extremity problems, such as pain and numbness, particularly when typing at work, extending down to the hands bilaterally with the right worse than the left. He diagnosed spinal stenosis and herniated disc and bilateral CTS.

By decision dated October 10, 2024, OWCP modified the June 24, 2024 decision to find that appellant had established the employment factors as described. However, the claim remained denied as the medical evidence of record was insufficient to establish a medical condition causally related to the accepted employment factors. It noted that appellant had previously filed an occupational disease claim under OWCP File No. xxxxxx808 for a left wrist injury as of February 8, 2016, which was denied.

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.³ For example, if a new injury claim is reported for an employee who previously filed an injury claim for a similar condition of the same part of the body, doubling is required.⁴

In the present case, appellant has alleged injury to her neck, upper extremities, and back. She has a June 23, 2008 accepted claim under OWCP File No. xxxxxx137 for lumbar disc degeneration and lumbosacral disc disease; a claim under OWCP File No. xxxxxx325 accepted on September 1, 2009 for a lumbar sprain; and a denied occupational claim under OWCP File No.

² OWCP File No. xxxxxx808.

³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8c (February 2000).

⁴ *Id.*; *Order Remanding Case, H.B.*, Docket No. 20-1298 (issued November 22, 2021); *Order Remanding Case, S.G.*, Docket No. 21-0396 (issued September 27, 2021).

xxxxxx 808 for left wrist pain due to computer use as of February 8, 2016. Appellant's prior claims have been cited in OWCP's evaluation of the current claim.

Therefore, for full and fair adjudication, the case must be remanded to OWCP to administratively combine the current case record in OWCP File No. xxxxxx523, with OWCP Files No. xxxxxx137, File No. xxxxxx325 and File No. xxxxxx808.⁵ This will allow OWCP to consider all relevant reports and accompanying evidence in developing the current claim.⁶

On remand, OWCP shall administratively combine the above-noted claim files.⁷ Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.⁸ Accordingly,

IT IS HEREBY ORDERED THAT the October 10, 2024 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: December 19, 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

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

⁶ *Order Remanding Case, L.M.*, Docket No. 19-1490 (issued January 29, 2020).

⁷ *Order Remanding Case, J.W.*, Docket No. 22-1047 (issued March 14, 2023).

⁸ *Order Remanding Case, J.B.*, Docket No. 22-0127 (issued February 16, 2023).