United States Department of Labor Employees' Compensation Appeals Board

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M.T., Appellant and DEPARTMENT OF THE AIR FORCE, AIRCRAFT MAINTENANCE SQUADRON, ROBINS AIR FORCE BASE, GA, Employer

Docket No. 24-0543 Issued: July 9, 2024

Case Submitted on the Record

Appearances: Appellant, pro se Office of Solicitor, for the Director

ORDER REMANDING CASE

Before: PATRICIA H. FITZGERALD, Deputy Chief Judge VALERIE D. EVANS-HARRELL, Alternate Judge JAMES D. McGINLEY, Alternate Judge

On April 25, 2024 appellant filed a timely appeal from a January 25, 2024 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 24-0543.¹

On November 8, 2023 appellant, then a 60-year-old materials expediter, filed an occupational disease claim (Form CA-2) alleging that he injured a disc in his neck due to factors of his federal employment.² He noted that he first became aware of his condition and realized its relationship to his federal employment on October 18, 2023. Appellant did not stop work.

In support of his claim, appellant submitted a statement wherein he noted that he previously injured his neck while sanding under the wing of a C-5 aircraft.

¹ The Board notes that, following the January 25, 2024 decision, OWCP received additional evidence. However, 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*.

² OWCP assigned the present claim OWCP File No. xxxxxx013. Appellant has a previously-accepted occupational disease claim for carpal tunnel syndrome, cubital tunnel syndrome, and cervical radiculopathy under OWCP File No. xxxxx758. The claims have not been administratively combined by OWCP.

By decision dated January 25, 2024, OWCP denied appellant's occupational disease claim, finding that the evidence of record was insufficient to establish a neck condition causally related to the accepted factors of his federal employment.

The Board, having duly considered this matter, finds that the 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 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.⁴ Herein, appellant's claim under OWCP File No. xxxxx758 also involved a neck injury, which is at issue in the present claim under OWCP File No. xxxxxx013. For a full and fair adjudication, this case must be remanded for OWCP to administratively combine the current case record with OWCP File No. xxxxx758, so it can consider all relevant claim files and accompanying evidence in adjudicating appellant's current occupational disease claim.⁵ Following this and other such further development as OWCP deems necessary, it shall issue a *de novo* decision. Accordingly,

IT IS HEREBY ORDERED THAT the January 25, 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: July 9, 2024 Washington, DC

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

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

> James D. McGinley, Alternate Judge Employees' Compensation Appeals Board

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

⁴ *Id.*; *M.L.*, Docket No. 20-1176 (issued April 29, 2021); *L.M.*, Docket No. 19-1490 (issued January 29, 2020); *L.H.*, Docket No 18-1777 (issued July 2, 2019).

⁵ Supra note 3 at Chapter 2.400.8(c)(1); W.D., Docket No. 19-0961 (issued March 31, 2021); L.P., Docket Nos. 18-1558, 18-1568 (issued June 21, 2019).