

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

J.F., Appellant)	
)	
and)	Docket No. 24-0402
)	Issued: June 4, 2024
U.S. POSTAL SERVICE, YBOR CITY)	
PROCESSING & DISTRIBUTION CENTER,)	
Orlando, FL, Employer)	

Appearances:
Appellant, pro se
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 February 27, 2024 appellant filed a timely appeal from a December 20, 2023 merit decision and a February 5, 2024 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 24-0402.

On October 16, 2023 appellant, then a 53-year-old mail processing clerk, filed a traumatic injury claim (Form CA-1) alleging that on January 5, 2021 he sustained an injury when his supervisor assigned him to a work area that caused an aggravation of his low back, hip, and bilateral knee conditions while in the performance of duty.¹ He stopped work on January 20, 2021 and returned to work on January 26, 2021.

By decision dated December 20, 2023, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish that the January 5, 2021 employment incident occurred as alleged. It found that appellant provided vague and general allegations regarding his claim without supporting evidence and therefore failed to provide a

¹ Appellant previously filed an occupational disease claim (Form CA-2), for an emotional/stress-related condition in which he alleged that he was harassed by management. OWCP assigned that claim OWCP File No. xxxxxx646. Appellant's claims have not been administratively combined.

factual basis to support his claim. Therefore, OWCP concluded that the requirements had not been met to establish an injury as defined by FECA.

On January 31, 2024 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

By decision dated February 5, 2024, OWCP denied appellant's request for an oral hearing as untimely filed under 5 U.S.C. § 8124, finding that the request was not made within 30 days of the December 20, 2023 decision. It further exercised its discretion and determined that the issue in the case could equally well be addressed by a request for reconsideration before OWCP, along with the submission of new evidence.

The Board has duly considered this matter and 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.² 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.³ Herein, appellant filed a claim under OWCP File No. xxxxxx302 for a stress-related condition. He had previously filed a claim for an emotional/stress-related condition, under OWCP File No. xxxxxx646.

Therefore, for a full and fair adjudication, the case shall be remanded for OWCP to administratively combine the current caserecord, OWCP File No. xxxxxx302, with the case record in OWCP File No. xxxxxx646 so that it can consider all relevant claim files and accompanying evidence in adjudicating the present claim.⁴ On remand, OWCP shall review the evidence in both of these claim files to determine whether or not OWCP File No. xxxxxx 302 constitutes a duplicate claim. This will allow OWCP to avoid piecemeal adjudication of the issues in these cases and raise the possibility of inconsistent results. It is the Board's policy to avoid such an outcome.⁵ Following this and other such further development as deemed necessary, it shall issue a *de novo* decision.⁶ Accordingly,

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

³ *Id.*; *S.A.*, Docket No. 23-0164 (issued July 17, 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 *Supra* note2 at Chapter 2.400.8c(1); *M.L.*, *id.*; *W.D.*, Docket No. 19-0961 (issued March 31, 2021); *L.P.*, Docket Nos. 18-1558, 18-1568 (issued June 21, 2019).

⁵ *See M.S.*, Docket No. 13-1024 (issued January 14, 2014); *William T. McCracken*, 33 ECAB 1197 (1982).

⁶ In light of the Board's disposition with regard to the merit issue, the nonmerit issue is rendered moot.

IT IS HEREBY ORDERED THAT the December 20, 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. The February 5, 2024 decision is set aside as moot.

Issued: June 4, 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
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