United States Department of Labor Employees' Compensation Appeals Board

M.L., Appellant	
ivi.E., rippenant)
and) Docket No. 24-0809
) Issued: September 11, 2024
U.S. POSTAL SERVICE, DULUTH POST)
OFFICE, Duluth, GA, Employer)
	_)
Appearances:	Case Submitted on the Record
Appellant, pro se	
Office of Solicitor, for the Director	

ORDER REMANDING CASE

Before:

PATRICIA H. FITZGERALD, Deputy Chief Judge JANICE B. ASKIN, Judge VALERIE D. EVANS-HARRELL, Alternate Judge

On August 4, 2024 appellant filed a timely appeal from a June 28, 2024 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 24-0809.

On February 15, 2024 appellant, then a 56-year-old tractor trailer operator, filed a traumatic injury claim (Form CA-1) alleging that on February 14, 2024 he sustained left shoulder and arm injuries while offloading metal containers with one hand and one arm in the performance of duty. He stopped work on February 15, 2024 and returned on February 20, 2024.

OWCP received medical reports from Dr. Daniel R. Orcutt, a Board-certified orthopedic surgeon, dated from April 18 to June 4, 2024 wherein he noted appellant's prior right shoulder biceps tendon tear with permanent restrictions, and appellant's left shoulder and elbow conditions. In an attending physician's report (Form CA-20) dated June 19, 2024, Dr. Orcutt related that appellant's repetitive use of the left arm created a strain.

¹ OWCP assigned the present claim OWCP File No. xxxxxxx526. Appellant has two prior claims involving the right arm. Under OWCP File No. xxxxxxx585, OWCP accepted appellant's claim for a March 13, 2019 traumatic rupture right radial collateral ligament. Under OWCP File No. xxxxxxx099, OWCP accepted appellant's claim for a September 17, 2021 traumatic right arm strain (unspecified muscle, fascia, and tendon at shoulder and upper arm).

By decision dated June 28, 2024, OWCP denied the claim, finding that the medical evidence was insufficient to establish causal relationship between his diagnosed medical condition(s) and the accepted employment incident.²

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.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

Herein, appellant has two prior claims that were accepted for right arm conditions. Appellant alleges in the present claim that, as a result of medical restrictions regarding the use of his right arm, he could only use his left arm when he was injured on February 14, 2024.

Therefore, for full and fair adjudication, the case shall be remanded to OWCP to administratively combine OWCP File Nos. xxxxxx526, xxxxxx585, and xxxxxx099.⁵ This will allow OWCP to consider all relevant reports and accompanying evidence in developing the current claim.⁶

The Board will therefore remand the case to OWCP to combine the files. Following this and such further development as it deems necessary, OWCP shall issue a *de novo* decision. Accordingly,

² OWCP initially denied the claim on April 26, 2024. Following several requests for reconsideration, by decisions dated May 23, June 11, June 18, June 21, and June 28, 2024, OWCP denied modification.

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).

⁵ Order Remanding Case, K.W., Docket No. 22-1258 (issued March 14, 2023); Order Remanding Case, L.M., Docket No. 19-1490 (issued January 29, 2020)

⁶ *Id*.

IT IS HEREBY ORDERED THAT the June 28, 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: September 11, 2024

Washington, DC

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

Janice B. Askin, Judge Employees' Compensation Appeals Board

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