

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

M.S., Appellant)	
)	
and)	Docket No. 21-0671
)	Issued: December 14, 2021
DEPARTMENT OF VETERANS AFFAIRS,)	
OKLAHOMA CITY VA MEDICAL CENTER,)	
Oklahoma City, OK, 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
JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge

On March 16, 2021 appellant filed a timely appeal from a March 3, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 21-0671.

On November 28, 2016 appellant, then a 47-year-old supervisor police officer, filed a traumatic injury claim (Form CA-1) alleging that on November 3, 2016 he injured his lower back and right leg during his annual medical examination and stress test while in the performance of duty.¹ He stopped work on November 4, 2016 and performed light-duty work from March 1 through June 6, 2017. On November 30, 2017 OWCP accepted the claim for dislocation of the L4-5 lumbar vertebra. It subsequently expanded the acceptance of the claim to include intervertebral disc disorders with lumbar radiculopathy.

¹ OWCP assigned the present claim OWCP File No. xxxxxx297. Appellant has a prior traumatic injury claim for a January 23, 2015 fractured left ankle under OWCP File No. xxxxxx089. On February 26, 2020 OWCP awarded 12 percent left lower extremity permanent impairment. Appellant's claims have not been administratively combined.

On September 30, 2019 appellant filed a schedule award claim (Form CA-7).

By decision dated March 3, 2021, OWCP granted appellant a schedule award for 11 percent permanent impairment of his right lower extremity and 0 percent of his left lower extremity based on a December 2, 2020 report of DMA Dr. Harris.²

The Board has duly considered the matter and finds that this case is not in posture for decision. OWCP's procedures provide that cases should be administratively combined where correct adjudication depends on cross-referencing between files and where two or more injuries occur to the same part of the body.³ Appellant previously received 12 percent permanent impairment of the left lower extremity under File No. xxxxxx089 and this prior schedule award was referenced by DMA Dr. Harris in his December 2, 2020 report in the present file. OWCP then based its schedule award of zero percent left lower extremity permanent impairment on Dr. Harris' December 2, 2020 report. Due to frequent cross-referencing of the claims, for a full and fair adjudication, the case must be returned to OWCP to administratively combine the current case record with OWCP File No. xxxxxx089. This will allow OWCP to consider all relevant claim files in developing appellant's schedule award claim.⁴

Accordingly, the Board will remand the case to OWCP to administratively combine OWCP File Nos. xxxxxx297 and xxxxxx089. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision on appellant's increased schedule award claim.

² In his report, DMA Dr. Harris referenced the schedule award for 12 percent permanent impairment of appellant's left lower extremity under File No. xxxxxx089.

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

⁴ *Id.*; See *R.S.*, Docket No. 20-1232 (issued April 28, 2021).

IT IS HEREBY ORDERED THAT the March 3, 2021 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: December 14, 2021
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board