

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

J.G., Appellant)	
)	
and)	Docket No. 22-1243
)	Issued: May 17, 2023
U.S. POSTAL SERVICE, RIVERDALE POST)	
OFFICE, Riverdale, IL, Employer)	
)	

Appearances: *Case Submitted on the Record*
Alan J. Shapiro, Esq., for the appellant¹
Office of Solicitor, for the Director

ORDER REMANDING CASE

Before:
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

On August 24, 2022 appellant, through counsel, filed a timely appeal from an August 18, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 22-1243.

On July 13, 2020 appellant, then a 26-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on June 25, 2020 he sustained a stress fracture of his left foot when walking his delivery route while in the performance of duty. He stopped work on June 25, 2020. OWCP assigned the claim OWCP File No. xxxxxx675. Appellant noted that he sustained a prior left foot fracture on July 5, 2019 when he fell down a flight of stairs while delivering mail.²

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 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.

² The record reflects that appellant filed a previous Form CA-1 for a July 5, 2019 left foot sprain later diagnosed as a fifth metatarsal fracture under OWCP File No. xxxxxx910.

By decision dated August 19, 2021, OWCP accepted the claim for sequela of unspecified sprain of the left foot, and aggravation of a nondisplaced fracture of the left fifth metatarsal bone, subsequent encounter, for fracture with routine healing.

On November 3, 2021 appellant filed a claim for compensation (Form CA-7) for intermittent disability from work for the period February 27 through March 5, 2021. In an accompanying time analysis form (Form CA-7a) dated November 8, 2021, the employing establishment noted that appellant used 2.25 hours of leave without pay (LWOP) on February 27, 2021, 8 hours of LWOP on March 2, 2021, and 1.3 hours of LWOP on March 5, 2021.

In a development letter dated February 3, 2022, OWCP informed appellant of the deficiencies of his claim for intermittent disability. It advised him of the type of medical evidence required and afforded him 30 days to respond. Appellant did not submit additional evidence.

By decision dated March 8, 2022, OWCP denied appellant's claim for intermittent disability from work for the period February 27 through March 5, 2021. It noted that he had not submitted medical evidence establishing that the accepted injury disabled him from work on the dates claimed.

On March 21, 2022 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review.

At the hearing, held on June 16, 2022, appellant asserted that on multiple occasions in late February and early March 2021, a manager sent him home because his prescribed walking boot created a safety hazard.

By decision dated August 18, 2022, OWCP's hearing representative affirmed OWCP's March 8, 2022 decision.

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 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 of the same part of the body, doubling is required.⁴ Herein, appellant has a previous traumatic injury claim for a left foot sprain and left fifth metatarsal fracture under OWCP File No. xxxxxx910. The present claim, OWCP File No. xxxxxx675, also pertains to a left foot sprain and aggravation of the left fifth metatarsal fracture accepted under OWCP File No. xxxxxx910. Appellant's claims, however, have not been administratively combined by OWCP. For a full and fair adjudication, the case must be returned to OWCP to administratively combine the current case

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

⁴ *Id.*; *Order Remanding Case, M.D.*, Docket No. 22-0559 (issued October 26, 2022); *A.J.*, Docket No. 21-1410 (issued May 10, 2022); *R.H.*, Docket No. 21-0575 (issued December 21, 2021); *D.C.*, Docket No. 19-0100 (issued June 3, 2019); *N.M.*, Docket No. 18-0833 (issued April 18, 2019); *K.T.*, Docket No. 17-0432 (issued August 17, 2018).

record with OWCP File No. xxxxxx910. Following this, and such other further development as OWCP deems necessary, it shall issue a *de novo* decision. Accordingly,

IT IS HEREBY ORDERED THAT the August 18, 2022 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: May 17, 2023
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

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