

recurrence of disability. It therefore informed him that it would adjudicate his claim as a new injury.² OWCP processed the claim under case number xxxxxx199.

In reports dated December 13 and 28, 2010, Dr. Zafer Termanini, appellant's treating physician, stated that this was not a new case and that he had examined appellant on September 17, 2010 for an episodic flare-up which was a direct continuation of his initial injury, for which he had begun treating appellant in March 2010. He asserted that he had performed left knee surgery on appellant on June 21, 2010 under case number xxxxxx324 and that the documentation should remain under that case number since the current injury was directly related.

By decision dated December 30, 2010, OWCP denied the claim, finding that he failed to submit medical evidence sufficient to establish that he sustained a left knee injury in the performance of duty.

The Board notes that factual and medical evidence pertaining to the history of appellant's previously filed February 27, 2010 claim are not contained in the instant record.³ OWCP did not provide any explanation as to why it chose to adjudicate appellant's claim as a new injury or condition and why it denied appellant's request to adjudicate his claim as one for a recurrence of disability. This is significant given the fact that appellant and Dr. Termanini have indicated that his current condition is causally related to his February 2010 work injury. However, the case file does not contain contemporaneous medical reports which discuss appellant's medical condition as of February 2010. Thus, the case record before the Board is incomplete, as it does not include portions of the record pertaining to the history and development of appellant's claim, as is required for an informed adjudication of this case. As all the records pertaining to appellant's claim are necessary for complete consideration and adjudication of the issue raised on appeal, the Board, therefore, finds that the appeal docketed as No. 11-713 is not in posture for a decision as the Board is unable to render an informed adjudication of the case.

Accordingly, the December 30, 2010 decision will be set aside and remanded for reconstruction and consolidation of the case records to include the entire case file pertaining to claim numbers xxxxxx324 and xxxxxx199. After such further development as the Office deems necessary, it should issue an appropriate decision to protect appellant's appeal rights. Once the Office obtains this information, clarifies the instant record and composes a statement of accepted facts, it should then determine whether appellant sustained a new injury or condition in the performance of duty, or whether appellant sustained a recurrence of his February 27, 2010 injury.

² This letter is not contained in the instant record. The OWCP refers to the October 20, 2010 letter to appellant in its November 19, 2010 developmental letters to appellant and to the employing establishment.

³ The record does not explicitly indicate that the previous claim, under case number xxxxxx324, was accepted by OWCP. Dr. Termanini's reports, however, strongly suggest that he treated appellant and performed surgery pursuant to an accepted condition.

IT IS HEREBY ORDERED THAT the December 30, 2010 Office of Workers' Compensation Programs' decision be remanded for reconstruction and consolidation of the case records.

Issued: September 28, 2011
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board