

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

D.D., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Port Reading, NJ, Employer**

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**Docket No. 12-136
Issued: June 12, 2012**

Appearances:

Robert D. Campbell, Esq., for the appellant

Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:

RICHARD J. DASCHBACH, Chief Judge
ALEC J. KOROMILAS, Judge
COLLEEN DUFFY KIKO, Judge

On October 19, 2011 appellant, through his attorney, filed an application for review of a May 24, 2011 decision of the Office of Workers' Compensation Programs (OWCP), claim number xxxxxx595, which denied modification of a June 22, 2010 decision denying his claim for a traumatic injury filed on December 2, 2009.¹ The appeal was docketed as number 12-136.

In the May 24, 2011 decision, OWCP noted reviewing the other claim files and medical evidence, specifically stating “a review of your prior claims noted that you had a claim for injury to your right knee on May 9, 1989 that was accepted for a right knee sprain under claim number xxxxxx493.” In the June 22, 2010 decision, the hearing representative also noted a review of appellant’s prior claims stating “Review of the claimant’s prior claims indicates that he has accepted claims for both the right and left knee. The left knee claim remains open for medical care. The claimant received a third-party settlement under the right knee claim, xxxxxx493.”² The hearing representative further noted that “the claimant received treatment specific to the

¹ On December 2, 2009 appellant alleged that on December 1, 2009 he was walking his mail route and his right knee gave out on him. He asserted that he sustained an aggravation of his prior right knee injury in claim number xxxxxx493.

² The complete medical records and factual information pertaining to these claims are not in the record before the Board.

preexisting condition and similar to treatment he had received in the past for that condition. The medical reports dated prior to the claimed injury event describe similar symptoms and treatment with regard to the preexisting right knee condition.”

The Board has duly considered the matter and notes that the case is not in posture for a decision. The claim before the Board, number xxxxxx595, involves appellant’s claim for an traumatic injury involving his right knee, specifically that he sustained an aggravation of his preexisting right knee condition accepted in claim number xxxxxx493. In the June 22, 2010 and May 24, 2011 decisions, OWCP noted reviewing evidence and findings made in claim number xxxxxx493 in reaching its decision. The evidence also indicates that claim number xxxxxx493 may have evidence germane to claim number xxxxxx595.

Pursuant to its procedures, OWCP has determined that cases should be combined where correct adjudication depends on cross-referencing between files. In the instant appeal, it appears that, for a full and fair adjudication, OWCP claims pertaining to appellant’s knee conditions should be combined pursuant to OWCP procedures.³ This will allow OWCP to consider all relevant claim files in developing appellant’s claim. Moreover, to consider appellant’s appeal at this stage would involve a piecemeal adjudication of the issues in this case and raise the possibility of inconsistent results. It is the Board’s policy to avoid such an outcome.⁴

The case will be remanded to OWCP to combine claim numbers xxxxxx595 and xxxxxx493. Following this and such other development as deemed necessary, OWCP shall issue an appropriate merit decision on appellant’s claim.

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

⁴ See *William T. McCracken*, 33 ECAB 1197 (1982).

IT IS HEREBY ORDERED THAT the May 24, 2011 decision be set aside and the matter remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: June 12, 2012
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