

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

_____)	
J.M., Appellant)	
)	
and)	Docket No. 19-0008
)	Issued: July 10, 2019
DEPARTMENT OF THE NAVY,)	
PORTSMOUTH NAVAL SHIPYARD,)	
Kittery, ME, Employer)	
_____)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:
CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

On October 1, 2018 appellant filed a timely appeal from a September 13, 2018 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 19-0008.

On September 29, 2017 appellant, then a 55-year-old ship operator/marine electrician, filed a traumatic injury claim (Form CA-1) for left knee chondromalacia that allegedly arose on September 7, 2017 while in the performance of duty.¹ OWCP assigned the claim File No. xxxxxx856. Appellant previously filed a traumatic injury claim for a possible left knee meniscus tear that allegedly arose in the performance of duty on May 5, 2016. OWCP assigned his prior left knee claim File No. xxxxxx785.²

¹ Appellant stated that while lying on his right side on the deck plate and working to clear a low pressure alarm, he lifted his left leg to adjust his position when the left knee sustained a subluxation.

² The complete factual and medical evidence associated with File No. xxxxxx785 is not part of the current case record.

OWCP denied appellant's traumatic injury claim by decision dated September 13, 2018. It found that the medical evidence of record did not establish that the September 7, 2017 employment incident either caused or contributed to his left knee osteoarthritis.

The Board has duly considered the matter and concludes 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-reference 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 or the same part of the body, doubling is required.⁴

As noted, appellant has two left knee traumatic injury claims, which OWCP assigned File Nos. xxxxxx856 and xxxxxx785. The case record for the latter claim, which preexisted the current September 7, 2017 left knee injury, is not part of the current case record. The Board finds that for a full and fair adjudication, the case must be returned to OWCP to combine the current case record with File No. xxxxxx785.⁵ Following this and any other development OWCP deems necessary, a *de novo* decision shall be issued with respect to appellant's entitlement to FECA benefits under File No. xxxxxx856.

IT IS HEREBY ORDERED THAT the September 13, 2018 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further action consistent with the order of the Board.

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

⁴ *Id.*

⁵ *See M.W.*, Docket No. 17-0743 (issued January 23, 2018).

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Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

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

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