

On March 24, 2014 appellant, then a 58-year-old tractor trailer operator, filed an occupational disease claim (Form CA-2) alleging that, after a total right knee replacement on December 17, 2002, he compensated with use of his left leg and developed severe degenerative arthritis of his left knee due to factors of his federal employment. Appellant also indicated that this was a claim for consequential injury.⁴ OWCP assigned this claim OWCP File No. xxxxxx624.

Appellant has three prior claims regarding the right knee. On June 23, 1995 appellant filed a notice of traumatic injury (Form CA-1) alleging that he sustained a right knee injury on that date when a stuck postal container was loosened and smashed into his knee while in the performance of duty. OWCP assigned that claim File No. xxxxxx590 and accepted it for right knee contusion. On October 28, 1996, appellant filed a notice of traumatic injury (Form CA-1) alleging that on that date he sustained another right knee injury when he tripped over a plate on the floor while in the performance of duty. OWCP assigned that claim OWCP File No. xxxxxx361 and accepted it for tear of the right knee medial meniscus.⁵ The record also reflects that appellant filed a notice of traumatic injury (Form CA-1) on July 28, 2008 alleging right knee and shoulder injuries due to stepping in a hole on that date while in the performance of duty. OWCP assigned that claim OWCP File No. xxxxxx770 and accepted it for right knee effusion. These three prior right knee claims, OWCP File Nos. xxxxxx770, xxxxxx590, and xxxxxx361, have been administratively combined with File No. xxxxxx770 designated the master file.

By decision dated July 1, 2014, OWCP denied appellant's March 24, 2014 occupational disease claim under OWCP File No. xxxxxx624, finding that the medical evidence of record was insufficient to establish causal relationship between the diagnosed left knee osteoarthritis and appellant's employment duties extending over more than one work shift. On July 29, 2014 appellant requested an oral hearing before an OWCP hearing representative. In a January 13, 2015 decision, OWCP's hearing representative found the case was not in posture for a hearing and remanded the case for findings as to whether appellant was claiming a consequential injury or a new occupational disease. By decision dated May 20, 2015, OWCP denied appellant's occupational disease claim, finding that the claimed work factors did not occur as alleged. It found that the requirements had not been met to establish an injury as defined by FECA. On June 10, 2015 appellant requested an oral hearing before an OWCP hearing representative, which was held on November 20, 2015. By decision dated February 23, 2016, OWCP's hearing representative, affirmed the May 20, 2015 decision as modified. The hearing representative noted all of appellant's accepted claims for right and left knee injuries and found that appellant established a factual basis for the occupational disease claim. The claim remained denied, however, because the medical evidence of record was insufficient to establish causal relationship between a diagnosed medical condition and the accepted factors of his federal employment.

⁴ Appellant has previously filed a traumatic injury claim (Form CA-1) on May 28, 1996 alleging that he sustained a left knee injury that day when climbing out of his truck while in the performance of duty. OWCP accepted this claim for left knee strain on August 8, 1996 and on January 18, 2019 expanded acceptance of the claim to include tear of the left knee meniscus and acceleration of left knee osteoarthritis. This claim was assigned by OWCP as File No. xxxxxx228. OWCP File No. xxxxxx624 and File No. xxxxxx228 have been administratively combined, with the latter designated as the master file.

⁵ Appellant underwent a total right knee replacement under OWCP File No. xxxxxx361 on December 12, 2012.

On January 17, 2017 and April 3, 2018 appellant, through counsel, requested reconsideration and submitted additional arguments and medical evidence. By decisions dated April 7, 2017 and May 10, 2018, OWCP denied modification.

On January 23, 2019 appellant, through counsel, requested reconsideration and submitted new medical evidence. By decision dated March 12, 2019, OWCP denied appellant's request for reconsideration of the merits of his claim pursuant to 5 U.S.C. § 8128(a).

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-referencing between files.⁶ 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.⁷

In the instant case, appellant is alleging a consequential left knee condition arising following a total right knee replacement. The record reflects that the present claim has already been administratively combined with appellant's prior claim pertaining to his left knee; however, OWCP has not administratively combined the present claim with his prior claims pertaining to his right knee conditions.

For a full and fair adjudication, the Board finds that this case must be remanded to OWCP to administratively combine with master File No. xxxxxx770. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

The Board finds that this case is not in posture for decision

⁶ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000).

⁷ *Id.*; see *P.B.*, Docket No. 19-1532 (issued April 30, 2020); *L.H.*, Docket No 18-1777 (issued July 2, 2019).

ORDER

IT IS HEREBY ORDERED THAT the March 12, 2019 merit decision of the Office of Workers' Compensation Programs is set aside and this case is remanded for further proceedings consistent with this order of the Board.

Issued: June 16, 2020
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

Judge

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