

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

_____)	
B.M., Appellant)	
)	
and)	Docket No. 20-0955
)	Issued: November 30, 2020
U.S. POSTAL SERVICE, LOS ANGELES)	
CUSTOMER CARE FACILITY,)	
Los Angeles, CA, Employer)	
_____)	

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

Case Submitted on the Record

ORDER REMANDING CASE

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge

On March 25, 2020 appellant filed a timely appeal from a February 14, 2020 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Board assigned Docket No. 20-0955.¹

On October 30, 2018 appellant, then a 71-year-old customer care center lead agent, filed a traumatic injury claim (Form CA-1) alleging on that date her left knee buckled and caused her to fall in the employing establishment parking lot injuring her left hand, left big toe, right knee, right shoulder, and right hand between her little finger and wrist while in the performance of duty. She stopped work on that date and received continuation of pay through December 14, 2018. On January 4, 2019 OWCP accepted appellant's claim for contusions of both knees and both hands as well as abrasion of the left hand, thoracic spine sprain, and fracture of the lower end of the right femur.

¹ The Board notes that following the February 14, 2020 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

By decision dated March 27, 2019, OWCP denied appellant's claims for compensation for the period December 15, 2018 through March 8, 2019, finding that the medical evidence submitted did not explain what clinical findings demonstrated that she was totally disabled. On April 9, 2019 appellant requested an oral hearing before the Branch of Hearings and Review.

By decision dated October 28, 2019, OWCP's hearing representative reversed the March 27, 2019 OWCP decision and found that appellant was entitled to wage-loss compensation through June 26, 2019, the date of the second opinion examination by Dr. Alan Knopf, a Board-certified orthopedic surgeon, who found that appellant was not disabled due to the accepted October 30, 2018 employment injury. She further noted that appellant had prior claims, including an August 18, 2004 traumatic injury under OWCP File No. xxxxxx737, which was accepted for right knee medial meniscal tear and surgery, as well a February 8, 2005 traumatic injury claim under OWCP File No. xxxxxx674 that was accepted for aggravation of right knee medial meniscal tear. OWCP's hearing representative found that there was no medical evidence supporting appellant's claimed employment-related disability on or after June 26, 2019 and remanded the claim for OWCP to issue compensation and final decision in keeping with her decision.

Appellant continued to file claims for compensation requesting wage-loss compensation from June 26, 2019 through January 31, 2020.

By decision dated February 14, 2020, OWCP denied appellant's claims for compensation for the period June 26, 2019 and continuing.

The Board, having duly considered the matter, finds that this case is not in posture for decision. OWCP's procedures provide that cases should be administratively combined when correct adjudication depends on cross-referencing between files and when two or more injuries occur to the same part of the body.²

The instant claim under OWCP File No. xxxxxx135 and OWCP File Nos. xxxxxx737 and xxxxxx674 all involve injuries to appellant's right knee and lower extremity. OWCP has not, however, administratively combined the case records for her previously accepted right knee conditions, nor incorporated the relevant and contemporaneous medical evidence into the current case record.³ These claims must be administratively combined for a full and fair adjudication of her present claim.⁴ This will allow OWCP to consider all relevant claim files and accompanying evidence in developing appellant's current claim for disability.⁵

² Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000) (cases should be administratively combined when correct adjudication of the issues depends on frequent cross-reference between files).

³ *G.D.*, Docket No. 19-1969 (issued May 4, 2020); *D.L.*, Docket No. 17-1588 (issued January 28, 2019); *K.T.*, Docket No. 17-0432 (issued August 17, 2018).

⁴ *L.H.*, Docket No. 17-1960 (issued August 16, 2018); *K.P.*, Docket No. 15-1945 (issued February 10, 2016).

⁵ *K.B.*, Docket No. 17-2004 (issued May 4, 2018); *C.R.*, Docket No. 15-0737 (issued August 3, 2015); *B.A.*, Docket No. 12-1476 (issued December 21, 2012).

Accordingly, the Board will remand the case to OWCP to administratively combine the current file, OWCP File No. xxxxxx135, and OWCP File Nos. xxxxxx737 and xxxxxx674. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* merit decision.

IT IS HEREBY ORDERED THAT the February 14, 2020 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: November 30, 2020
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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