

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

F.S., Appellant)	
)	
and)	Docket No. 21-0428
)	Issued: October 28, 2021
DEPARTMENT OF JUSTICE, FEDERAL)	
BUREAU OF PRISONS, COLEMAN FEDERAL)	
CORRECTIONAL COMPLEX Coleman, FL,)	
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 January 11, 2021 appellant filed a timely appeal from August 24 and December 14, 2020 merit decisions of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 21-0428.¹

On January 7, 2020 appellant, then a 42-year-old correctional officer, filed a traumatic injury claim (Form CA-1) alleging that on January 4, 2020 she injured her left knee while removing property from a cell while in the performance of duty.² She did not stop work.

¹ The Board notes that OWCP received additional evidence after the December 14, 2020 decision. 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.*

² OWCP previously accepted a September 5, 2010 traumatic injury claim for a left knee sprain under File No. xxxxxx882 and a November 30, 2010 traumatic injury claim for a left knee sprain and derangement of lateral meniscus under File No. xxxxxx398. Appellant filed subsequent traumatic injury claims alleging that she sustained left knee conditions on October 21, 2011 and May 22, 2020 under OWCP File Nos. xxxxxx304 and xxxxxx813, respectively, which were denied.

By decision dated June 2, 2020, OWCP denied appellant's claim, finding that the evidence of record was insufficient to establish that the January 4, 2020 incident occurred, as alleged.

On June 14, 2020 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.

By decision dated August 24, 2020, the hearing representative affirmed the June 2, 2020 decision, as modified, finding that the medical evidence of record was insufficient to establish causal relationship between the accepted January 4, 2020 employment incident and the diagnosed condition. The hearing representative noted appellant's previously accepted claims under OWCP File Nos. xxxxxx882 and xxxxxx398, as well as the previously denied traumatic injury claims under OWCP File Nos. xxxxxx304 and xxxxxx813.

On September 9, 2020 appellant requested reconsideration of the August 24, 2020 decision.

By decision dated December 14, 2020, OWCP denied modification of the August 24, 2020 decision.

The Board, having duly considered this matter, finds 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.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 Herein, appellant's claims under OWCP File Nos. xxxxxx882, xxxxxx398, xxxxxx304, and xxxxxx813 also involved injuries to the left knee. Therefore, for full and fair adjudication, the case must be returned to OWCP to administratively combine the current case record with OWCP File Nos. xxxxxx882, xxxxxx398, xxxxxx304, and xxxxxx813 so it can consider all relevant claim files and accompanying evidence in adjudicating appellant's current traumatic injury claim.⁵

Following this and other such further development as OWCP deems necessary, it shall issue a *de novo* decision.

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

⁴ *Id.*; *M.L.*, Docket No. 20-1176 (issued April 29, 2021); *L.M.*, Docket No. 19-1490 (issued January 29, 2020); *L.H.*, Docket No 18-1777 (issued July 2, 2019).

⁵ *Supra* note 3 at Chapter 2.400.8(c)(1); *W.D.*, Docket No. 19-0961 (issued March 31, 2021); *L.P.*, Docket Nos. 18-1558, 18-1568 (issued June 21, 2019); *L.S.*, Docket Nos. 17-1863, 17-1867, 17-1868 (issued April 18, 2018); *W.S.*, Docket No. 15-0969 (issued October 5, 2015); *C.C.*, Docket No. 14-1576 (issued March 9, 2015).

IT IS HEREBY ORDERED THAT the August 24 and December 14, 2020 decisions of the Office of Workers' Compensation Programs are set aside and the case is remanded for further proceedings consistent with this order of the Board.

Issued: October 28, 2021
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