

In support of his claim, appellant submitted a report dated January 4, 2019 from Dr. Gregory Lind, a family medicine specialist, wherein he noted that appellant was seen for a possible toe infection.

OWCP received hospital discharge instructions dated October 1, 2021, signed by a nurse, which listed appellant's diagnosis as cellulitis of the fifth toe of the left foot.

In a letter dated October 6, 2021, appellant attested that on November 28, 2018 he was participating in lift training and fell face down. As he fell, he felt discomfort in his left foot and toes. Appellant related that he had previously broken his left toes during firearms training on May 8, 2018. On October 1, 2021 he went to the emergency room as during the past month his big toe swelled, and he could hardly walk anymore. At the emergency room appellant was told that his toe was broken, infected, and that there was dead tissue around it. He also submitted photographs of his toe.

In a letter dated October 7, 2021, a certified nurse practitioner diagnosed appellant's condition as left foot second toe osteomyelitis. She also diagnosed appellant with lower extremity diabetic foot ulceration with infection and second toe hammertoe contracture deformity, which were confirmed by a magnetic resonance imaging (MRI) scan report. Appellant underwent surgery and was provided with work restrictions.

In a development letter dated October 18, 2021, OWCP advised appellant of the type of factual and medical evidence needed and provided appellant with a questionnaire. It afforded appellant 30 days to submit the necessary evidence.

Appellant submitted a response to OWCP's questionnaire dated October 23, 2021. He stated that, although not immediately, he did mention his injury to his supervisor. Appellant affirmed that he previously injured his left toes and filed a traumatic injury claim in May 2018. He explained that he did not immediately tend to his foot because he had to take one of his officers to the hospital that day, but that he later saw his toes were bent and blistered. Appellant was told that his toe infection had spread to his bone.

By decision dated November 23, 2021, OWCP accepted that the November 28, 2018 employment incident occurred, as alleged, but denied appellant's claim, finding that he had not submitted medical evidence containing a medical diagnosis in connection with his accepted employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

The Board has duly considered this matter and finds that the case is not in posture for decision.

Under its procedures, OWCP has determined that cases should be administratively combined where a new injury case is reported for an employee who previously filed an injury

claim for the same part of the body and where correct adjudication depends on cross-referencing between files.¹

Appellant has a previously accepted claim under OWCP File No. xxxxxx648, for an injury on May 9, 2018, which also claimed injury to his left toes. However, appellant's claims have not been administratively combined. Therefore, for a full and fair adjudication, the Board will remand the case to OWCP to administratively combine File Nos. xxxxxx296 and xxxxxx648. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

IT IS HEREBY ORDERED THAT the November 23, 2021 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further proceedings consistent with this order of the Board.

Issued: June 22, 2022
Washington, DC

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

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



James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board

¹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000). See also *Order Remanding Case, M.W., 20-1221* (issued July 6, 2021).