

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

K.S., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Bellmawr, NJ, Employer**

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**Docket No. 22-0960
Issued: September 20, 2022**

Appearances:

*Aaron B. Aumiller, Esq., for the appellant¹
Office of Solicitor, for the Director*

Case Submitted on the Record

ORDER REMANDING CASE

Before:

ALEC J. KOROMILAS, Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

On June 8, 2022 appellant, through counsel, filed a timely appeal from a January 12, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP) under OWCP File No. xxxxxx666. The Clerk of the Appellate Boards assigned the appeal Docket No. 22-0960.

On January 8, 2020 appellant, then a 46-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on December 19, 2019 she developed a right knee condition while in the performance of duty.² She explained that she experienced a shooting pain in her right knee as she stepped down on her right foot to exit her oversized postal van. Appellant related that as she continued to work, her right knee pain occurred with walking and ascending and descending stairs

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² Appellant has a previously accepted an occupational disease claim (Form CA-2) for bilateral knee conditions under OWCP File No. xxxxxx519. She subsequently filed a traumatic injury claim for a right knee condition under OWCP File No. xxxxxx336, which OWCP denied by decision dated June 11, 2014.

while in the performance of duty. She did not stop work, returning to a modified-duty position on January 9, 2020.

By decision dated February 20, 2020, OWCP denied appellant's claim, finding that she had not established that the December 19, 2019 incident occurred, as alleged. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On March 5, 2020 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. The oral hearing took place on June 11, 2020.

By decision dated August 21, 2020, OWCP's hearing representative affirmed as modified the February 20, 2020 decision, accepting that the December 19, 2019 incident occurred as alleged. However, he found that the claim remained denied because the evidence of record was insufficient to establish causal relationship between the accepted December 19, 2019 employment incident and the diagnosed right knee conditions.

On October 27, 2020 appellant, through counsel, requested reconsideration.

By decision dated August 23, 2021, OWCP denied modification of its prior decision.

On October 14, 2021 appellant, through counsel, requested reconsideration. She contended that OWCP failed to consider her previously accepted bilateral knee injuries and requested that her claims for right knee injuries, including OWCP File Nos. xxxxxx519, xxxxxx666, and xxxxxx336, be administratively combined.

By decision dated January 12, 2022, OWCP denied modification of its prior decision.

The Board, having duly considered the matter, finds that this 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.³ This will allow OWCP to consider all relevant claim files in developing this traumatic injury claim.⁴

Accordingly, for full and fair adjudication of the present claim, this case shall be remanded for OWCP to administratively combine File Nos. xxxxxx666, xxxxxx336, and xxxxxx519.

³ *K.G.*, Docket No. 21-0068 (issued July 29, 2022); *W.W.*, Docket No. 19-0884 (issued June 16, 2020); *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).

⁴ *Id.*

Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.⁵

IT IS HEREBY ORDERED THAT the January 12, 2022 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: September 20, 2022
Washington, DC

Alec J. Koromilas, 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

⁵ *K.G.*, *supra* note 3; *M.B.*, Docket No. 20-0770 (issued January 5, 2021); *R.G.*, Docket No. 19-1755 (issued July 7, 2020); *L.M.*, Docket No. 19-1490 (issued January 29, 2020).