

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.

Appellant has a prior traumatic injury claim (Form CA-1) under OWCP File No. xxxxxx306, with a January 1, 2018 date of injury. OWCP accepted that claim for left knee sprain.

In a December 20, 2017 treatment note, Dr. Howard Freedberg, a Board-certified orthopedic surgeon, noted that appellant sustained a traumatic injury on November 17, 2017. He related that “while walking out of her truck, she fell.” Dr. Freedberg diagnosed left knee osteoarthritis. He saw appellant on multiple occasions following January 23, 2018, repeated his findings and diagnosed left knee osteoarthritis and opined that it was a work injury.

In an October 16, 2018 report, Dr. Ankur Chhadia, a Board-certified orthopedic surgeon, noted an onset date of November 11, 2017 and related that appellant had worked as a truck driver for 18 years and had to climb up stairs frequently to reach the driver’s seat in the truck. He noted that appellant related that she had a gradual onset of bilateral knee pain and that appellant had a right knee replacement 10 years prior with good relief from the surgery. Dr. Chhadia diagnosed left knee osteoarthritis. He also noted that appellant had a sprain of the left knee, which was accepted under OWCP File No. xxxxxx306.

By decision dated December 6, 2018, OWCP denied the claim in OWCP File No. xxxxxx190, finding that the medical evidence of record was insufficient to establish a diagnosis in connection with the claimed injury and/or events. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On January 16, 2019 appellant requested reconsideration and submitted a December 3, 2018 report from Dr. Chhadia.

By decision dated June 28, 2019, OWCP modified the December 6, 2018 decision to find that Dr. Chhadia diagnosed left knee osteoarthritis. The claim remained denied, however, as the medical evidence of record was insufficient to establish causal relationship between appellant’s diagnosed left knee osteoarthritis and the accepted employment factors.

Appellant thereafter continued to request reconsideration and submitted additional medical evidence. OWCP denied modification on October 2, 2019, January 23 and, July 14, 2020, and September 28 and November 10, 2021.

The Board has duly considered this matter and 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.² 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.³ In this case, appellant has a

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

³ *Id.*; see *Order Remanding Case, R.H.*, Docket No. 21-0575 (issued December 21, 2021); *Order Remanding Case, D.C.*, Docket No. 19-0100 (issued June 3, 2019); *Order Remanding Case, N.M.*, Docket No. 18-0833 (issued April 18, 2019); *Order Remanding Case, K.T.*, Docket No. 17-0432 (issued August 17, 2018).

previously-accepted claim for left knee sprain under OWCP File No. xxxxxx306. The present claim also pertains to the left knee.

For a full and fair adjudication, the case must be returned to OWCP to administratively combine the current case record with the record in OWCP File No. xxxxxx306. This will allow OWCP to consider all relevant claim files in adjudicating appellant's claim.⁴ Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision. Accordingly,

IT IS HEREBY ORDERED THAT the November 10, 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: February 9, 2023
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

⁴ See *Order Remanding Case, D.G.*, Docket No. 22-0531 (issued November 18, 2022).