

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

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**J.C., Appellant**

**and**

**U.S. POSTAL SERVICE, TOMBSTONE POST  
OFFICE, Tombstone, AZ, Employer**

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**Docket No. 22-1220  
Issued: February 7, 2023**

*Appearances:*  
*Stephanie Leet, Esq.* for the appellant<sup>1</sup>  
*Office of Solicitor*, for the Director

*Case Submitted on the Record*

**ORDER REMANDING CASE**

Before:

PATRICIA H. FITZGERALD, Deputy Chief Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge  
JAMES D. MCGINLEY, Alternate Judge

On August 12, 2022 appellant, through her counsel, filed a timely appeal from a February 17, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 22-1220.

On May 17, 2021 appellant, then a 60-year-old sales and service distribution associate, filed an occupational disease claim (Form CA-2), alleging that she developed left knee joint space narrowing, arthritis, and grinding as a result of overcompensation from a prior work-related right knee injury.<sup>2</sup> She noted that she first became aware of her condition on April 27, 2021 and realized its relation to her federal employment on May 11, 2021.

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<sup>1</sup> 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.

<sup>2</sup> OWCP assigned the present claim OWCP File No. xxxxxx157. Appellant has a prior occupational disease claim (Form CA-2), filed on April 25, 2021, alleging that she tore her right knee meniscus due to factors of her federal employment. OWCP accepted this claim for right knee unilateral primary osteoarthritis and assigned OWCP File No. xxxxxx731.

In support of her claim, appellant submitted medical evidence dated January 15, 2019 through May 11, 2021.

By decision dated August 18, 2021, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish causal relationship between her diagnosed condition and the accepted factors of her federal employment.

On September 10, 2021 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. The hearing was held on December 3, 2021.

By decision dated February 17, 2022, the hearing representative affirmed OWCP's August 18, 2021 decision. The representative, however, recommended that OWCP administratively combine the current claim with appellant's prior claim for a work-related right knee condition under OWCP File No. xxxxxx731.

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 depends on frequent cross-referencing between files and where two or more injuries occur to the same part of the body.<sup>3</sup> This will allow OWCP to consider all relevant claim files in developing this schedule award claim.<sup>4</sup> In the present claim, appellant alleged a work-related left knee arthritic condition due to overcompensation from her accepted right knee injury. As noted, she has a prior occupational disease claim under OWCP File No. xxxxxx731 for a right knee condition, and OWCP's hearing representative, by decision dated February 17, 2022, recommended that her claims be administratively combined. To date, appellant's prior claim has not been administratively combined with the present claim. Therefore, for a full and fair adjudication, the case must be remanded to OWCP to administratively combine OWCP File Nos. xxxxxx731 and xxxxxx157. On remand OWCP shall review all relevant evidence to determine whether the medical evidence of record is sufficient to establish causal relationship between her diagnosed condition and the accepted factors of her federal employment. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision. Accordingly,

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

<sup>4</sup> *Id.*

**IT IS HEREBY ORDERED THAT** the February 17, 2022 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: February 7, 2023  
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