

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

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| K.Y., Appellant |) | |
| |) | |
| and |) | Docket No. 23-0403 |
| |) | Issued: July 26, 2023 |
| U.S. POSTAL SERVICE, BETTENDORF POST |) | |
| OFFICE, Bettendorf, IA, Employer |) | |
| |) | |

Appearances: *Case Submitted on the Record*
Alan J. Shapiro, Esq., for the appellant¹
Office of Solicitor, for the Director

ORDER REMANDING CASE

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

On January 27, 2023 appellant, through counsel, filed a timely appeal from a December 7, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 23-0403.

On February 26, 2022 appellant, then a 33-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that her right knee conditions were due to factors of her federal employment, which included eight years of casing mail, lifting, twisting, climbing hills, steps and "carrying weight." She explained that her right knee started to swell and that her condition worsened after she fell on a pipe that was sticking out of the ground. Appellant noted that she first

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 an 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.

became aware of her condition on March 15, 2020 and realized its relation to factors of her federal employment on April 1, 2020. She stopped work on July 8, 2021.²

By decision dated April 4, 2022, OWCP denied appellant's occupational disease claim. It found that the medical evidence did not establish that her knee conditions were causally related to the accepted work events. OWCP noted appellant's allegations regarding eight years of strain caused by casing mail, lifting, twisting, climbing hills, climbing steps, carrying weight, and that it was more difficult to perform her job after she fell on a pipe and her condition worsened.

On April 11, 2022 appellant requested reconsideration of the April 4, 2022 decision and submitted additional evidence. By decision dated April 13, 2022, OWCP denied modification of its April 4, 2022 decision. It found that the medical evidence did not contain a rationalized medical opinion that was based on a complete and accurate history with supporting objective findings which explained how appellant's accepted work factors caused the diagnosed right knee conditions, and which addressed appellant's claimed May 15, 2020 injury under OWCP File No. xxxxxx565.

On April 18, 2022 appellant again requested reconsideration and submitted additional medical evidence.

By decision dated May 20, 2022, OWCP denied appellant's request for reconsideration of the merits of her claim as her request neither raised substantive legal questions, nor included new and relevant evidence.

On September 8, 2022 appellant, through counsel, requested reconsideration and submitted additional evidence.

By decision dated December 7, 2022, OWCP denied modification of its prior decision. It again noted that appellant's treating physician did not address her claimed May 15, 2020 injury under OWCP File No. xxxxxx565.

The Board has duly considered the matter and concludes 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

² OWCP assigned the present claim OWCP File No. xxxxxx487. Under OWCP File No. xxxxxx565, appellant had previously filed a traumatic injury claim (Form CA-1) for a May 15, 2020 alleged injury to her right knee which occurred when she slipped and fell onto a waterpipe sticking out of the ground, while in the performance of duty. By decision dated August 18, 2020, OWCP denied that claim, finding that appellant had not established that the incident occurred as alleged.

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

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 had prior traumatic injury claim for a right knee injury, assigned OWCP File No. xxxxx565. She subsequently filed an occupational disease claim for the same region of the body, assigned OWCP File No. xxxxx487. Therefore, for a full and fair adjudication, the case must be returned to OWCP to administratively combine the current case record, OWCP File No. xxxxx487, with OWCP File No. xxxxx565. Following this and any further development deemed necessary, OWCP shall issue a *de novo* decision. Accordingly,

IT IS HEREBY ORDERED THAT the December 7, 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: July 26, 2023
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

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

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

⁴ *Id.*; *K.W.*, Docket No. 22-0951 (issued January 26, 2023); *A.D.*, Docket No. 22-0147 (issued July 1, 2022); *S.G.*, Docket No. 21-0396 (issued September 27, 2021); *R.L.*, Docket No. 20-0901 (issued July 27, 2021); *M.E.*, Docket No. 21-0094 (issued May 27, 2021); *L.M.*, Docket No. 19-1490 (issued January 29, 2020); *L.H.*, Docket No. 18-1777 (issued July 2, 2019).