

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

J.R., Appellant

and

**U.S. POSTAL SERVICE, SOUTH SUBURBAN
PROCESSING & DISTRIBUTION CENTER,
Bedford Park, IL, Employer**

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**Docket No. 22-1293
Issued: March 13, 2023**

Appearances:
Jason S. Lomax, 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 September 8, 2022 appellant, through counsel, filed a timely appeal from an August 19, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 22-1293 to the appeal.

On May 18, 2022 appellant, then a 62-year-old maintenance mechanic, filed a notice of recurrence (Form CA-2a) alleging that on April 26, 2022 she felt pain in her knees after transferring to a new post office, which required her to do a lot of walking, climbing, bending, pulling, and lifting. She indicated that the date of her original injury was May 24, 2005, and that her work restrictions arising from that injury had continued until the present. Appellant noted that she underwent a knee procedure in 2011 and that, at her previous duty station, she was allowed to ride a bike to perform her job, with duties that did not require bending or lifting, and that she did

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.

less walking and standing on her left knee. OWCP assigned the instant claim OWCP File No. xxxxxx370. It converted the present claim to a new occupational disease claim (Form CA-2).²

Appellant had previously filed a traumatic injury claim (Form CA-1) for an injury sustained on May 24, 2005 which OWCP accepted for left knee medial and lateral meniscus tears. OWCP assigned this prior claim OWCP File No. xxxxxx156. Appellant also had previously filed a Form CA-1 for an injury sustained on April 4, 2011 which OWCP accepted for contusion of left finger, contusion of left knee, sprain of thoracic region of back, and tear of medial meniscus of left knee, under OWCP File No. xxxxxx572, as well as an occupational disease claim (Form CA-2) which OWCP accepted for peroneal tendinitis of the right leg, under OWCP File No. xxxxxx339.

By decision dated August 19, 2022, OWCP denied the instant claim, under OWCP File No. xxxxxx370, finding that causal relationship had not been established.

The Board has duly considered this matter and concludes that the 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 new injury case is reported for an employee who previously filed an injury claim for a similar condition, doubling is required.⁴ Herein, appellant had prior claims for lower extremity conditions under OWCP File Nos. xxxxxx156, xxxxxx572, and xxxxxx339. She subsequently filed a recurrence claim on May 18, 2022 which OWCP developed as a new occupational disease claim under the instant claim, OWCP File No. xxxxxx370.

For a full and fair adjudication, the case must be remanded to OWCP to administratively combine the current case record, OWCP File No. xxxxxx370, with OWCP File Nos. xxxxxx156, xxxxxx572, and xxxxxx339. On remand, OWCP shall review all relevant evidence to determine whether appellant has established an injury in the performance of duty. Following this and other such further development as deemed necessary, it shall issue a *de novo* decision. Accordingly,

² Appellant originally filed the Form CA-2a under OWCP File No. xxxxxx156, which was a traumatic injury claim accepted by OWCP for left knee medial and lateral meniscus tears.

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

⁴ *Id.*; *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).

IT IS HEREBY ORDERED THAT the August 19, 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: March 13, 2023
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