

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

G.J., Appellant)	
)	
and)	Docket No. 23-1184
)	Issued: April 4, 2024
DEPARTMENT OF AGRICULTURE, U.S.)	
FOREST SERVICE, MASTEAD ANNEX,)	
Albuquerque, NM, Employer)	
)	

Appearances:
Alan J. Shapiro, 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 22, 2023 appellant, through counsel, filed a timely appeal from a September 6, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 23-1184.

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.

On August 17, 2022 appellant, then a 65-year-old wildlife biologist, filed a traumatic injury claim (Form CA-1) alleging that on August 2, 2022 he injured both knees when he tripped on a rock or root on the ground and fell, while in the performance of duty.² He did not stop work.

By decision dated February 21, 2023, OWCP accepted that the August 2, 2022 incident occurred as alleged. However, it denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish a causal relationship between the accepted employment incident and his diagnosed medical conditions.

On June 12, 2023 appellant, through counsel, requested reconsideration of OWCP's February 21, 2023 decision and submitted additional medical evidence.

By decision dated September 6, 2023, OWCP denied modification of the February 21, 2023 decision.

The Board, having duly considered the matter, 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.³ 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.⁴ Herein, in the present claim, appellant alleged injuries to his right and left knees. As noted above, he had a previously accepted claim for a May 27, 2017 traumatic injury under OWCP File No. xxxxxx552 for sprain and meniscus tear of the right knee. Appellant also had prior claims concerning the right knee under OWCP File Nos. xxxxxx571, xxxxxx433, xxxxxx494, and xxxxxx463 and concerning the left knee under OWCP File Nos. xxxxxx411 and xxxxxx645. Therefore, for a full and fair adjudication, this case must be returned to OWCP to administratively combine the current case record with OWCP File Nos. xxxxxx552, xxxxxx571, xxxxxx433, xxxxxx494, xxxxxx463, xxxxxx411 and xxxxxx645, so it can consider all relevant claim files and relevant evidence in adjudicating appellant's current traumatic injury claim.⁵

² OWCP assigned the present claim OWCP File No. xxxxxx464. The record reflects that appellant has a previously accepted May 27, 2017 traumatic injury claim under OWCP File No. xxxxxx552 for sprain and meniscus tear of the right knee. Appellant also previously filed August 14, 2002 and July 12, 2016 traumatic injury claims for the right knee, which OWCP processed as short form closures under OWCP File Nos. xxxxxx571 and xxxxxx433, respectively. He also filed June 7, 2019 traumatic injury and occupational disease claims (Form CA-2) for right knee pain, which OWCP denied under OWCP File Nos. xxxxxx494 and xxxxxx634, respectively. Appellant also filed prior claims for the left knee, including an August 6, 2017 traumatic injury, which OWCP denied under OWCP File No. xxxxxx411 and a November 29, 2020 traumatic injury, which OWCP processed as a short form closure under OWCP File No. xxxxxx645.

³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8c (September 2020); *T.D.*, Docket No. 20-1119 (issued January 29, 2021); *R.R.*, Docket No. 19-0368 (issued November 26, 2019).

⁴ *Id.*; *M.L.*, Docket No. 20-1176 (issued April 29, 2021); *L.M.*, Docket No. 19-1490 (issued January 29, 2020); *L.H.*, Docket No 18-1777 (issued July 2, 2019).

⁵ *Supra* note 2 at Chapter 2.400.8(c)(1); *W.D.*, Docket No. 19-0961 (issued March 31, 2021); *L.P.*, Docket Nos. 18-1558, 18-1568 (issued June 21, 2019).

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

IT IS HEREBY ORDERED THAT the September 6, 2023 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: April 4, 2024
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