

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

J.D., Appellant)	
)	
and)	Docket No. 23-1199
)	Issued: February 20, 2024
U.S. POSTAL SERVICE, U.S. POSTAL)	
INSPECTION SERVICE, New York, NY,)	
Employer)	
)	

Appearances:
Appellant, pro se
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 September 28, 2023 appellant filed a timely appeal from a September 22, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 23-1199.

On September 9, 2022 appellant, then a 56-year-old police officer, filed a traumatic injury claim (Form CA-1) alleging that on that date he injured his right ankle and knee when he slipped as he was descending stairs while in the performance of duty.¹ He did not stop work.

By decision dated January 5, 2023, OWCP found that the September 9, 2022 incident had occurred as alleged, but denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish the medical component of the fact of injury, as the medical evidence did not contain a valid diagnosis from a qualifying physician. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

¹ OWCP assigned the present claim OWCP File No. xxxxxx898. Appellant has a previously accepted November 12, 1999 traumatic injury claim accepted for bilateral femur fractures with bilateral open reduction and internal fixations under OWCP File No. xxxxxx779. He filed an additional traumatic injury claim on September 11, 2003 accepted for internal derangement of the right knee under OWCP File No. xxxxxx114. Appellant's claims have not been administratively combined by OWCP.

On January 16, 2023 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. A hearing was held on July 13, 2023.

By decision dated September 22, 2023, OWCP's hearing representative modified the January 5, 2023 decision to find that appellant had established a medical diagnosis in connection with the accepted employment incident. However, the hearing representative affirmed the denial of the claim as causal relationship had not been established.

The Board, having duly considered this matter, finds 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 case 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

Under OWCP File Nos. xxxxxx779 and xxxxxx114 OWCP accepted right leg/knee conditions. As the present claim also involves right knee conditions, the Board finds that the claims shall be administratively combined for a full and fair adjudication. Consolidation of the case files prior to the final decision would allow OWCP to consider all relevant claim files and accompanying evidence in developing appellant's present claim.

Therefore, the Board will remand the case for OWCP to administratively combine OWCP File Nos. xxxxxx779 and xxxxxx114 with the present claim. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision. Accordingly,

² *H.C.*, Docket No. 23-0607 (issued September 14, 2023); *K.R.*, Docket No. 20-0911 (issued October 30, 2020); *R.R.*, Docket No. 19-0368 (issued November 26, 2019); Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance & Management*, Chapter 2.400.8c (February 2000).

³ *Id.*

IT IS HEREBY ORDERED THAT the September 22, 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: February 20, 2024
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