

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

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<b>J.C., Appellant</b>	)	
	)	
<b>and</b>	)	<b>Docket No. 23-1101</b>
	)	<b>Issued: January 18, 2024</b>
<b>U.S. POSTAL SERVICE, POST OFFICE,</b>	)	
<b>Bellmawr, NJ, Employer</b>	)	
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*Appearances:*

*David J. Picconi, for the appellant<sup>1</sup>*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**ORDER REMANDING CASE**

Before:

JANICE B. ASKIN, Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge  
JAMES D. MCGINLEY, Alternate Judge

On August 18, 2023 appellant, through her representative, filed a timely appeal from a May 11, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 23-1101.<sup>2</sup>

On April 5, 2021 appellant, then a 54-year-old city delivery specialist, filed a traumatic injury claim (Form CA-1) alleging that on March 18, 2021 she experienced burning pain in the left knee when walking up and down stairs while in the performance of duty. She noted that she thought that it was related to her back since the pain traveled from her groin to her left foot.

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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> The Board notes that, following the May 11, 2023 decision, a appellant submitted additional evidence on appeal to the Board. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

Appellant stopped work on March 29, 2021. OWCP assigned the claim OWCP File No. xxxxxx246.

In an April 2, 2021 letter, M.A., the postmaster, controverted the claim and noted that appellant did not report any injury to management and continued to work through March 27, 2021. He also related that on March 23, 2021 she had informed management that she had back fatigue and requested scheduled sick leave for a physician's appointment. M.A. noted that on March 26, 2021 appellant reported to work and requested that she only case her route, as she had back pain. He also noted that on March 21, 2021 she called in and indicated that she thought she had hurt her knee on March 18, 2021. When M.A. inquired as to how the knee injury occurred, appellant responded, "I don't know, just walking I guess" and "I thought it was my back."

Appellant provided statements dated April 24 and May 5, 2021, wherein she noted that she had several injuries which included an accepted lower back injury. She referred to her lower back claim with an August 9, 2013 date of injury under OWCP File No. xxxxxx445 and explained that she initially believed that her current pain was related to that claim; however, she filed the present claim with a March 18, 2021 date of injury for her back and left leg because she believed that it may be a new claim.<sup>3</sup>

By decision dated May 18, 2021, OWCP denied appellant's traumatic injury claim, finding that the medical evidence was insufficient to establish causal relationship between a medical condition and the accepted March 18, 2021 employment incident.

On June 15, 2021 appellant requested a review of the written record before a representative of OWCP's Branch of Hearings and Review. By decision dated October 12, 2021, an OWCP hearing representative affirmed the May 18, 2021 decision.

Appellant continued to request reconsideration. By decisions dated July 27 and November 28, 2022, and May 11, 2023, OWCP denied modification.

The Board, having duly considered the matter, finds that this case is not in posture for decision.

OWCP procedures provide that cases should be administratively combined when correct adjudication of the issues depends on frequent cross-referencing between case files.<sup>4</sup> For example,

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<sup>3</sup> Under OWCP File No. xxxxxx445 OWCP accepted that appellant sustained a traumatic injury on August 9, 2013 which caused strain of the lower back muscle, fascia and tendon, and lumbar intervertebral disc degeneration. By decision dated September 5, 2023, the Board found that OWCP properly determined that her accepted conditions had resolved by September 24, 2019. However, the Board also found that a conflict existed in the medical opinion evidence as to whether appellant had continuing residuals or disability after September 24, 2019 due to her accepted employment injury. See Docket No. 22-0018 (issued September 5, 2023). The Board also notes that OWCP has administratively combined OWCP File No. xxxxxx445 with OWCP File No. xxxxxx502, the master file, as well as OWCP File Nos. xxxxxx809, xxxxxx142 and xxxxxx664.

<sup>4</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Doubling Case Files*, Chapter 2.400.8c (February 2000); *T.D.*, Docket No. 20-1119 (issued January 29, 2021); *R.R.*, Docket No. 19-0368 (issued November 26, 2019).

if a new injury 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.<sup>5</sup>

The Board notes that appellant has a traumatic injury claim for her back under OWCP File No. xxxxxx445. In the present claim, appellant alleged that she developed a left knee and back condition due to an injury on March 18, 2021; however, she also indicated that she initially believed that her symptoms were related to her prior back injury. Herein, appellant's prior traumatic injury claim under OWCP File No. xxxxxx445 also involves a back injury which is at issue in the present claim under OWCP File No. xxxxxx246. For a full and fair adjudication, the case must be remanded to OWCP to administratively combine OWCP File Nos. xxxxxx445 and xxxxxx246, so that all of the relevant claim files and accompanying evidence can be considered in adjudicating appellant's claims. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision. Accordingly,

**IT IS HEREBY ORDERED THAT** the May 11, 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: January 18, 2024  
Washington, DC

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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

James D. McGinley, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>5</sup> *Id.*; *A.M.*, Docket No. 22-0095 (issued May 9, 2022); *M.B.*, Docket No. 20-1175 (issued December 31, 2020); *L.M.*, Docket No. 19-1490 (issued January 29, 2020).