

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

C.G., Appellant)	
)	
and)	
)	
DEPARTMENT OF VETERANS AFFAIRS,)	Docket No. 26-0165
WILLIAM S. MIDDLETON MEMORAL)	Issued: March 30, 2026
VETERANS HOSPITAL, Madison, WI,)	
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
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

On December 9, 2025 appellant, through counsel, filed a timely appeal from a November 21, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 26-0165.²

On January 8, 2025 appellant, then a 53-year-old medical supply aid and technician, filed a traumatic injury claim (Form CA-1) alleging that on January 2, 2025 he developed bilateral knee

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 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.

² The Board notes that following the November 21, 2025 decision, OWCP received additional evidence. 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.*

pain when the elevator he was riding in unexpectedly stopped and fell three to four feet.³ He stopped work on January 2, 2025 and returned on January 6, 2025.⁴

By decision dated March 25, 2025, OWCP denied appellant's claim, finding that the evidence of record was insufficient to establish a diagnosed medical condition in connection with the accepted January 2, 2025 employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On April 1, 2025 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

Additional medical reports were received from physicians which noted, *inter alia*, diagnoses of appellant's knee and/or back conditions.

In progress notes dated January 24, 2025, Dr. Nathan J. Rudin, Board-certified in physical medicine and rehabilitation, related that an x-ray of appellant's lumbar spine dated January 3, 2025 revealed moderate degenerative disease at L4-5, and L5-S1. Progress notes dated June 5, and September 11, 2025 by Dr. Rudin related diagnoses of chronic bilateral low back pain with bilateral sciatica, and somatic dysfunction of the lumbar region. In a report dated February 17, 2025, Dr. John J. Wilson, Board-certified in family medicine, diagnosed left knee mild arthritis and patellar tendonitis. In a note dated October 3, 2025, Dr. Rudin diagnosed lumbar spondylosis without myelopathy. He opined that this was a preexisting condition which had been aggravated by the January 2, 2025 employment incident. In a progress report dated October 22, 2025, Dr. Rudin related that electrodiagnostic (EMG) testing of appellant's spine revealed chronic left L2-L4 radiculopathy without active denervation, or chronic left femoral neuropathy (felt to be less likely) without active denervation.

The oral hearing was held before the representative of OWCP's Branch of Hearings and Review on September 5, 2025.

By decision dated November 21, 2025, OWCP's hearing representative affirmed the March 25, 2025 decision. She found that the medical evidence of record was insufficient to support a claim for left knee injury or worsening right knee/and or low back conditions causally related to the January 2, 2025 employment incident. The hearing representative referenced appellant's accepted claim in OWCP File No. xxxxxx099 and directed OWCP to administratively combine the two files as they were related conditions which may require cross-referencing. OWCP has not administratively combined appellant's claim files.

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

³ OWCP assigned the present claim OWCP File No. xxxxxx889.

⁴ On March 12, 2020 appellant filed a notice of traumatic injury (Form CA-1) alleging that on February 5, 2020 he injured his right knee when an elevator he was riding in dropped several floors. OWCP assigned the claim OWCP File No. xxxxxx961. OWCP denied the claim and on January 11, 2023 ECAB affirmed the denial of the claim. On January 25, 2023 appellant filed a traumatic injury claim (Form CA-1) alleging that on January 20, 2023 he sustained a right hip injury. OWCP assigned the claim File No. xxxxxx099, and on November 13, 2023, it accepted the claim for right hip contusion. On June 3, 2024 OWCP expanded acceptance of the claim to include right knee medial meniscus tear.

OWCP's procedures provide that cases should be administratively combined when correct adjudication of the issues depends on frequent cross-referencing between files.⁵ 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.⁶ Appellant's claims under OWCP File Nos. xxxxxx889 and xxxxxx099 involve right knee and back injuries. Furthermore, as noted above, OWCP's hearing representative, in the November 21, 2025 decision, referenced the present claim, OWCP File No. xxxxxx889, and directed OWCP to administratively combine the two files. Therefore, these claims must be administratively combined for a full and fair adjudication.⁷ This will allow OWCP to consider all relevant claim files and accompanying evidence in developing the present claim.

The case shall, therefore, be remanded to OWCP. On remand, OWCP shall administratively combine OWCP File No. xxxxxx099, and any other relevant claim file(s), with the present claim. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

IT IS HEREBY ORDERED THAT the November 21, 2025 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 30, 2026
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000).

⁶ *Id.*; *L.G.*, Docket No. 18-1676 (issued August 22, 2019); *D.L.*, Docket No. 17-1588 (issued January 28, 2019).

⁷ *See C.Y.*, Docket No. 20-1079 (issued December 7, 2020); *L.G.*, *id.*; *K.T.*, Docket No. 17-0432 (issued August 17, 2018).