

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

N.M., Appellant)	
)	
and)	Docket No. 18-0833
)	Issued: April 18, 2019
U.S. POSTAL SERVICE, QUINCY POST)	
OFFICIE, Quincy, IL, Employer)	
)	

Appearances:
Alan J. Shapiro, Esq., for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:
CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
ALEC J. KOROMILAS, Alternate Judge

On March 13, 2018 appellant, through counsel, filed a timely appeal from a February 2, 2018 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 18-0833.

On October 19, 2012 appellant, then a 52-year-old city carrier, filed an occupational disease claim (Form CA-2) alleging that on July 5, 2012 she first became aware that her bilateral knee condition was causally related to her federal job duties which required walking with a heavy mailbag on uneven surfaces.² In her accompanying statement, she alleged that she had worked as a letter carrier for 28 years. Appellant noted that this position required walking on uneven ground, up and down steps, and through ice and snow carrying a loaded mailbag. She asserted that these duties caused her knee conditions.

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 Appellant noted that she originally submitted this claim as a recurrence of a May 2012 employment injury.

Appellant has two prior OWCP claims accepted for right knee conditions. On May 1, 2004 she sustained a work-related right knee osteochondritis dissecans with resulting right knee chondroplasty of patella and medial femoral condyle on September 1, 2004 in OWCP File No. xxxxxx081. On September 29, 2006 appellant sustained a right medial collateral ligament strain and underwent a second right knee surgery on January 31, 2007 for medial meniscal tear in OWCP File No. xxxxxx841.

The Board has duly considered the matter and finds that this case is not in posture for decision. OWCP's procedures provide that cases should be combined when correct adjudication of the issues depends on frequent cross-referencing between files. 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 In the instant case, appellant had two accepted claims for right knee conditions, assigned OWCP File No. xxxxxx081 and OWCP File No. xxxxxx841. She then filed an occupational disease claim for the same body part, assigned File No. xxxxxx493 currently before the Board. The evidence pertaining to File Nos. xxxxxx081 and xxxxxx841, however, is not in the case record presently before the Board.

For a full and fair adjudication, the case must be returned to OWCP to administratively combine the current case record with File Nos. xxxxxx081 and xxxxxx841, and determine whether appellant has provided sufficient rationalized medical opinion evidence to establish that she sustained a permanent aggravation or acceleration of her bilateral knee arthritis due to her federal employment. Following this and such further development as OWCP deems necessary, it shall issue a *de novo* decision.

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

IT IS HEREBY ORDERED THAT the February 2, 2018 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further action consistent with this decision of the Board.

Issued: April 18, 2019
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

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