

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

E.N., Appellant	)	
	)	
and	)	<b>Docket No. 22-1190</b>
	)	<b>Issued: December 1, 2022</b>
<b>DEPARTMENT OF JUSTICE, FEDERAL</b>	)	
<b>BUREAU OF PRISONS, LOMPOC FEDERAL</b>	)	
<b>CORRECTIONAL COMPLEX, Lompoc, CA,</b>	)	
<b>Employer</b>	)	
	)	

*Appearances:*  
Alan J. Shapiro, Esq., for the appellant,<sup>1</sup>  
Office of Solicitor, for the Director

*Case Submitted on the Record*

**ORDER REMANDING CASE**

Before:  
ALEC J. KOROMILAS, Chief Judge  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
JANICE B. ASKIN, Judge

On August 12, 2022 appellant, through counsel, filed a timely appeal from a July 19, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 22-1190.

On November 25, 2020 appellant, then a 56-year-old training instructor, filed a traumatic injury claim (Form CA-1) alleging that on November 17, 2020 he experienced pain and swelling in his right knee when he was running to respond to an emergency call and felt a pop in his right knee while in the performance of duty.<sup>2</sup> He related that the incident caused difficulty walking,

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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> OWCP assigned the present claim OWCP File No. xxxxxx818. Appellant has a previously-accepted April 7, 2016 traumatic injury claim for a right knee injury, an acute tear to the right medial meniscus, and internal derangement of the right knee under OWCP File No. xxxxxx906. Appellant also has a previously-filed May 13, 2014 traumatic injury claim for a right knee injury under OWCP File No. xxxxxx391. The claims have not been administratively combined by OWCP.

bending, stretching, and moving his leg from side to side. Appellant stopped work on November 19, 2020.

By decision dated January 19, 2021, OWCP denied appellant's traumatic injury claim, finding that he had not submitted sufficient evidence to establish that the events or incident occurred as alleged. Consequently, it found that appellant had not met the requirements to establish an injury as defined by FECA.

On August 16, 2021 appellant requested reconsideration of the January 19, 2021 decision and submitted additional evidence in support of his request.

By decision dated September 16, 2021, OWCP accepted that the November 17, 2020 employment incident occurred as alleged. However, it denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish causal relationship between appellant's diagnosed conditions and the accepted November 17, 2020 employment incident.

On September 29, 2021 appellant requested reconsideration of the September 16, 2021 decision.

By decision dated October 13, 2021, OWCP denied appellant's request for reconsideration of the merits of the claim pursuant to 5 U.S.C. § 8128(a).

On July 8, 2022 appellant, through counsel, again requested reconsideration of the September 16, 2021 decision and submitted additional evidence in support of his request.

By decision dated July 19, 2022, OWCP denied modification of its September 16, 2021 decision.

The Board has duly considered the matter and concludes 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.<sup>3</sup> 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.<sup>4</sup> Herein, appellant's claims under OWCP File Nos. xxxxxx818, xxxxxx391, and xxxxxx906 all involve injuries to the right knee. Thus, for a full and fair adjudication, this case must be returned to OWCP to administratively combine the current case record with OWCP File Nos. xxxxxx391 and xxxxxx906, so that it can consider all relevant claim files and accompanying evidence in adjudicating the present claim.<sup>5</sup> Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

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<sup>3</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8c (February 2000).

<sup>4</sup> *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).

<sup>5</sup> *Supra* note 3 at Chapter 2.400.8c(1); *W.D.*, Docket No. 19-0961 (issued March 31, 2021); *L.P.*, Docket Nos. 18-1558, 18-1568 (issued June 21, 2019).

**IT IS HEREBY ORDERED THAT** the July 19, 2022 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: December 1, 2022  
Washington, DC

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

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board