

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

<hr/>)	
L.C., Appellant)	
)	
and)	Docket No. 24-0206
)	Issued: May 16, 2024
U.S. POSTAL SERVICE, CREVE COEUR POST)	
OFFICE, Creve Coeur, MO, Employer)	
<hr/>)	

Appearances:
Appellant, pro se
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
JAMES D. MCGINLEY, Alternate Judge

On December 20, 2023 appellant filed a timely appeal from a June 26, 2023 merit decision and a November 24, 2023 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 24-0206.

On March 27, 2023 appellant, then a 50-year-old operations manager, filed an occupational disease claim (Form CA-2) alleging that she developed arthritis of both knees due to factors of her federal employment, including walking on concrete, and ascending and descending stairs and hills while carrying mail. She noted that she first became aware of her condition and realized its relation to her federal employment on March 6, 2023. Appellant did not stop work.¹

¹ OWCP assigned the present claim OWCP File No. xxxxxx014. Appellant has a previously-accepted claim for chondromalacia of the left patella, sustained on or before September 14, 2007, while in the performance of duty, under OWCP File No. xxxxxx998. Additionally, OWCP accepted a left knee collateral ligament sprain, sustained on September 26, 2016 while in the performance of duty, under OWCP File No. xxxxxx773, and a left knee sprain, aggravation of primary osteoarthritis of the left knee, and a medial meniscal tear of the left knee, sustained on August 7, 2020 while in the performance of duty, under OWCP File No. xxxxxx004.

By decision dated June 26, 2023, OWCP denied appellant's occupational disease claim, finding that the medical evidence of record was insufficient to establish causal relationship between her diagnosed conditions and the accepted factors of her federal employment.

On July 12, 2023 OWCP received a request for an oral hearing before a representative of OWCP's Branch of Hearings and Review.

In a September 21, 2023 notice, OWCP's hearing representative informed appellant that it had scheduled a telephonic hearing for November 6, 2023 at 10:30 a.m. Eastern Standard Time. The notice provided a toll-free number and appropriate passcode for access to the hearing. The hearing representative mailed the notice to appellant's last known address of record. Appellant did not appear for the hearing and no request for postponement was made.

By decision dated November 24, 2023, OWCP's hearing representative found that appellant had abandoned her request for an oral hearing, because she had received written notification of the hearing 30 days in advance, but failed to appear. It further found that there was no indication in the case record that she had contacted the Branch of Hearings and Review either prior to or within 10 days after the scheduled hearing to explain her failure to appear.

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 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

Herein, appellant has a previously-accepted claim for chondromalacia of the left patella, under OWCP File No. xxxxxx998. Additionally, OWCP accepted a left knee collateral ligament sprain, sustained on September 26, 2016 while in the performance of duty, under OWCP File No. xxxxxx773, and a left knee sprain, aggravation of primary osteoarthritis of the left knee, and a medial meniscal tear of the left knee, under OWCP File No. xxxxxx004. Therefore, for a full and fair adjudication, the case shall be remanded to OWCP to administratively combine the current case record, OWCP File No. xxxxxx014, with OWCP File Nos. xxxxxx998, xxxxxx773 and xxxxxx004. Following any further development deemed necessary, OWCP shall issue a *de novo* decision.⁴ Accordingly,

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

³ *Id.*; *Order Remanding Case, B.B.*, Docket No. 23-1015 (issued January 30, 2024); *Order Remanding Case, K.W.*, Docket No. 22-0951 (issued January 26, 2023); *Order Remanding Case, A.D.*, Docket No. 22-0147 (issued July 1, 2022); *Order Remanding Case, S.G.*, Docket No. 21-0396 (issued September 27, 2021); *Order Remanding Case, R.L.*, Docket No. 20-0901 (issued July 27, 2021); *Order Remanding Case, M.E.*, Docket No. 21-0094 (issued May 27, 2021); *Order Remanding Case, L.M.*, Docket No. 19-1490 (issued January 29, 2020); *Order Remanding Case, L.H.*, Docket No. 18-1777 (issued July 2, 2019).

⁴ In light of the Board's disposition regarding the merits of the case, the nonmerit issue is rendered moot.

IT IS HEREBY ORDERED THAT the June 26, 2023 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded to OWCP for further proceedings consistent with this order of the Board. The November 24, 2023 decision of the Office of Workers Compensation Programs is set aside as moot.

Issued: May 16, 2024
Washington, DC

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

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

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