

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ADRIAN CAMPBELL and U.S. POSTAL SERVICE,
POST OFFICE, Washington, DC

*Docket No. 99-108; Submitted on the Record;
Issued March 16, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
BRADLEY T. KNOTT

The issue is whether appellant sustained a recurrence of disability beginning April 25, 1997 causally related to his August 21, 1995 employment injury.

The Office of Workers' Compensation Programs accepted that appellant's August 21, 1995 employment injury, in which he fell and sustained a gash of the left knee, resulted in an infected hematoma and cellulitis of the left leg. The Office paid for surgery performed on August 29, 1995 and described as an arthroscopy of the left knee with irrigation and debridement of an infected hematoma. Appellant received continuation of pay from August 22 to October 5, 1995, followed by compensation for temporary total disability through October 22, 1995. Appellant returned to work on October 23, 1995.

On August 4, 1997 appellant, filed a claim for a recurrence of disability due to his August 21, 1995 employment injury. He listed the date of the recurrence as March 1997 and the date he stopped work following the recurrence as April 25, 1997. By letter dated August 21, 1997, the Office advised appellant of the additional evidence it needed regarding his claim for a recurrence of disability. By decision dated September 22, 1997, the Office found that appellant had not established that he sustained a recurrence of disability causally related to his accepted injury.

The Board finds that the case is not in posture for a decision.

In support of his claim for a recurrence of disability due to his accepted August 21, 1995 employment injury, appellant submitted reports from Dr. M. Mike Malek, a Board-certified

orthopedic surgeon. In a report dated April 30, 1997, Dr. Malek stated that appellant had an “increased amount of difficulty with the left knee in the form of pain, crepitation, popping and not being able to bend or kneel. He continues to work as a postal carrier.” Dr. Malek then stated:

“A thick medial band can be palpated over the medial femoral condyle as well as a thick band on the lateral side. This most probably is a fibrotic band and adhesions secondary to the previous arthroscopy and irrigation where he had developed an infected hematoma.

“RECOMMENDATION: I feel this patient is a suitable candidate for arthroscopic examination and debridement. He tells me that he has been told by the Department of Labor that his case can be reopened and, obviously if that is the case, this is related to his injury and should be approached accordingly.”

On May 21, 1997 Dr. Malek performed arthroscopic surgery on appellant’s left knee, excising the fibrous band and releasing adhesions. The postoperative diagnosis was arthrofibrosis and adhesions. In a note dated August 22, 1997, Dr. Malek stated that appellant could return to light duty.

Although the reports of Dr. Malek contain no rationale¹ and are, therefore, insufficient to meet appellant’s burden of proof to establish a recurrence of disability,² they unequivocally support a causal relationship between appellant’s condition when seen by Dr. Malek on April 30, 1997 and the surgery appellant underwent for the accepted condition. In the absence of any medical evidence indicating there is no such relationship, Dr. Malek’s reports are sufficient to require further development of the medical evidence by the Office.³ The case will be remanded to the Office for further action consistent with its procedure manual’s section on developing medical evidence.⁴

The decision of the Office of Workers’ Compensation Programs dated September 22, 1997 is set aside and the case remanded to the Office for action consistent with this decision of the Board.

¹ Medical reports not containing rationale on causal relation are entitled to little probative value and are generally insufficient to meet an employee’s burden of proof. *Ceferino L. Gonzales*, 32 ECAB 1591 (1981).

² Where appellant claims a recurrence of disability due to an accepted employment-related injury, he has the burden of establishing by the weight of the substantial, reliable and probative evidence that the subsequent disability for which he claims compensation is causally related to the accepted injury. This burden includes the necessity of furnishing evidence from a qualified physician who, on the basis of a complete and accurate factual and medical history, concludes that the condition is causally related to the employment injury and supports that conclusion with sound medical reasoning. *Frances B. Evans*, 31 ECAB 60 (1980).

³ *Daniel J. Gury*, 32 ECAB 261 (1980).

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Developing and Evaluating Medical Evidence*, Chapter 2.810.2(b) (April 1993) states, “[I]f the claimant submits a clear supporting medical opinion, it becomes the CE’s [claims examiner’s] responsibility to assist the claimant in developing additional evidence, or to develop further evidence by obtaining a consultation as second opinion.”

Dated, Washington, D.C.
March 16, 2000

Michael J. Walsh
Chairman

George E. Rivers
Member

Bradley T. Knott
Alternate Member