

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARYANN M. MORGAN and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL CENTER, Omaha, NE

*Docket No. 01-964; Submitted on the Record;
Issued December 19, 2001*

DECISION and ORDER

Before WILLIE T.C. THOMAS, A. PETER KANJORSKI,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained a left knee condition consequently related to her accepted employment injury.

The Office of Workers' Compensation Programs accepted that on July 3, 1998 appellant, then a 59-year-old nursing assistant, sustained a stress fracture in her right foot when she slipped on a wet carpet at work. Appellant received appropriate compensation and returned to work on limited duty on July 20, 1998.

In a statement dated September 17, 1999, appellant claimed that since July 3, 1998 she had to put her total weight on her left leg, that her left knee had given her problems in the past and that since she "had all this stress on the knee from [her] injury, [she needed] a total knee replacement." Appellant concluded that had it not been for her right foot injury, she would not have needed the left total knee replacement.

By letter dated January 18, 2000, the Office requested further information on appellant's consequential injury claim, including a rationalized medical opinion supporting causal relation with the right foot injury.

In response appellant submitted July 3, 1998 preinjury medical records. A November 11, 1993 x-ray demonstrated left knee osteoarthritis. A December 17, 1993 report diagnosed a left knee valgus deformity. Diagnostic radiographic examination on December 17, 1993 showed degenerative changes involving the left knee. On January 19, 1994 appellant was again diagnosed with degenerative arthritis of the left knee. A June 17, 1996 radiology report found early degenerative joint disease of the left knee. A November 10, 1997 radiology report also noted moderate degenerative disease.

A July 13, 1998 report from Dr. Mendlick noted that appellant had had left knee pain for more than five years and that she had a valgus deformity of the left knee and degenerative changes. He diagnosed "rule out internal derangement, left knee."

Appellant underwent an arthroscopic debridement of the left lateral meniscus tear and chondroplasty of the patella and the notch.

A November 18, 1998 report from Dr. Mendlick noted that appellant was complaining of left knee problems and that she felt that her right foot injury was “probably causing some difficulty on the left.” On December 28, 1998 Dr. Mendlick noted that appellant continued to have pain in her left knee and opined that appellant would likely need a total knee replacement to resolve all of her pain. On February 8, 1999 Dr. Mendlick diagnosed osterarthritis, left knee, resistant to treatment and spoke to appellant about a total knee replacement. On October 6, 1999 a left knee x-ray demonstrated left knee tricompartmental degenerative joint disease and noted that appellant’s examination at that time was unchanged from the examination of July 13, 1998.

Appellant underwent a left total knee replacement on October 15, 1999.

On March 1, 2000 the Office referred appellant’s records to an Office medical adviser for an opinion on whether her left total knee replacement was causally related to her right foot fracture.

By report dated March 26, 2000, the Office medical adviser opined that as early as 1993 appellant was identified with a valgus deformity and degenerative disease of the left knee and that the total knee replacement was just the result of end-stage degeneration of the knee joint. He concluded that there was no basis to accept that the left total knee replacement was consequential to the right foot fracture.

By decision dated April 5, 2000, the Office rejected appellant’s consequential injury claim. The Office found that appellant’s left knee condition had worsened prior to the July 1998 injury and that Dr. Mendlick provided no rationale for his conclusion that the left knee arthritis had been made worse by the right fracture.

The Board finds that appellant has failed to establish that she sustained a left knee condition consequently related to her accepted right foot injury.¹

In the case of *John R. Knox*,² the Board stated:

“It is an accepted principal of workers’ compensation law and the Board has so recognized, that when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is deemed to arise out of the employment, unless it is the result of an independent intervening cause which is attributable to the employee’s own intentional conduct. As is noted by Professor Larson in his treatise: ‘[O]nce the work-connected character of any injury, such as a back injury, has been established, the subsequent progression of that condition remains compensable so long as the

¹ As appellant appealed the April 5, 2000 decision, which was docketed on January 22, 2001, the Office decision dated April 20, 2001 and its supporting evidence are not now before the Board on this appeal. See 20 C.F.R. § 501.2(c).

² 42 ECAB 193 (1990).

worsening is not shown to have been produced by an independent nonindustrial cause.... [S]o long as it is clear that the real operative factor is the progression of the compensable injury, associated with an exertion that in itself would not be unreasonable [under] the circumstances.”³

In this case, appellant has not demonstrated that her left knee replacement arose out of her right foot fracture, or was the natural consequence of that injury. Instead, the evidence of record demonstrates that the left knee degeneration was preexisting and independent of the 1998 right foot fracture, being initially diagnosed in 1993.

Appellant has the burden of establishing by the weight of reliable, probative and substantial evidence that any consequential injury claimed was caused or aggravated by her federal employment injury. As part of this burden, appellant must submit a rationalized medical opinion, based upon a complete and accurate factual and medical background, showing a causal relationship between the injury claimed and her consequential condition.⁴ Causal relationship is a medical issue that can be established only by medical evidence.⁵ The fact that a condition manifests itself or worsens during a period of the employment injury does not raise an inference of a consequential relationship.⁶

In this case, appellant has not submitted any rationalized medical evidence supporting that the total left knee replacement was a natural consequence of her right metatarsal fracture. The only medical evidence supporting causation is a brief note from Dr. Mendlick who stated that appellant’s “degenerative arthritis in her left knee has been made worse symptomatically because of the injury to right foot,” and a November 18, 1998 report in which he noted that she was status post arthroscopy of the left knee with significant osteoarthritic changes and spoke of her need for a total knee replacement. No explanation of the pathophysiology of any causal relationship was provided, particularly in light of the documented worsening of her left knee condition prior to her claimed 1998 right foot injury.

The Board further notes that mere conclusions, such as the February 15, 1999 statement by Dr. Mendlick, without supporting rationale are of little probative value.⁷

³ *Id.* at 196.

⁴ *See, e.g., Steven R. Piper*, 39 ECAB 312 (1987).

⁵ *Mary J. Briggs*, 37 ECAB 578 (1986); *Ausberto Guzman*, 25 ECAB 362 (1974).

⁶ *See Paul D. Weiss*, 36 ECAB 720 (1985); *Hugh C. Dalton*, 36 ECAB 462 (1985).

⁷ *See Richard Giordano*, 36 ECAB 134 (1984).

The April 5, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
December 19, 2001

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member

Priscilla Anne Schwab
Alternate Member