

Appellant, a 22-year-old transportation security screener, filed a timely traumatic injury claim alleging that he sustained injuries to his knees on January 17, 2003 when he bent down to pick up a bag at a ticket counter. His claim was accepted for a bilateral knee strain and appellant

underwent a left knee arthroscopy on July 28, 2003. Appellant was terminated for cause from his federal employment on September 26, 2003. He was released to work without restrictions on November 4, 2003.

On May 27, 2004 appellant filed a claim for a recurrence of disability alleging that he had sustained an injury on March 17, 2004 pursuant to his nonfederal employment at a 24-hour fitness center. He felt a sudden onset of pain in his left knee while he was moving a couch in order to clean a window. Appellant submitted an unsigned report from Dr. Chi K. Cheung, a Board-certified general surgeon, who provided a diagnosis of exacerbation of left knee chondromalacia and generalized psoriasis. The report reflected that he had been moving heavy furniture when he felt a sudden onset of pain in his left knee. A report dated March 19, 2004 from appellant's treating physician, Dr. Robert Pandya, a Board-certified internist, reflected that he experienced an increase in knee pain when he was moving a couch at work on March 17, 2004. He provided diagnoses of exacerbation of left knee chondromalacia patella; chronic intermittent left knee pain; and status post arthroscopic left knee surgery. Unsigned notes dictated on March 23, 2004 by Dr. Peter Newton, a Board-certified orthopedic surgeon, reiterated appellant's account of his March 17, 2004 injury. Dr. Pandya's March 31, 2004 report reflected tenderness to palpation diffusely on the medial side of the left knee and slightly at the medial joint line; range of motion to be 90 degrees in flexion and 180 degrees in extension; negative Lachman's test; equivocal McMurray's test with pain laterally; and no instability with varus or valgus stress applied to the left knee. Appellant also submitted reports from Dr. Pandya dated April 28 to July 1, 2004 updating his condition.

By letter dated July 22, 2004, the Office asked appellant to provide a narrative report from his physician containing an opinion as to a causal relationship between his current disability and his originally accepted injury. By letter to Dr. Pandya dated August 5, 2004, the Office asked him to provide information relating to appellant's current diagnosed condition and his alleged recurrence of disability, specifically addressing the cause of his chondromalacia. He provided two reports dated July 21 and 29, 2004 updating appellant's condition, but providing no discussion of causal relationship.

The Office referred appellant, the medical record and a statement of accepted facts, to Dr. Ibrahim Yashruti, a Board-certified orthopedic surgeon, for a second opinion examination. In a September 2, 2004 report, he provided a history of injury and treatment and reviewed the medical record and statement of accepted facts. Dr. Yashruti provided a diagnosis of left knee chondromalacia, stated that appellant suffered from residuals of the January 17, 2003 work-related injury and opined that his condition was a combination of his original injury of January 17, 2003 aggravated further by his March 17, 2004 injury. The Office asked him whether the January 17, 2003 incident caused, aggravated, precipitated or accelerated any of appellant's diagnoses. Dr. Yashruti stated that the January 17, 2003 injury was the cause, because appellant did not have any prior problems with his knees. He further stated that repeated bending, squatting and lifting bags caused the injury to the left knee.

Dr. Pandya provided a report dated August 11, 2004 stating that appellant "apparently" experienced a temporary aggravation of his left knee condition during his employment at 24 Hour Fitness, but appeared to return to his previous baseline level after a few days of rest. Dr. Pandya stated that "within reasonable medical probability [he] may have experienced a

recurrence of his left knee chondromalacia in addition to experiencing a temporary aggravation of this condition as a result of the employment at 24 Hour Fitness.” He noted that pushing a heavy couch during appellant’s employment at 24 Hour Fitness caused the knee pain to increase. Dr. Pandya provided subsequent updates through November 11, 2004.

By decision dated January 10, 2005, the Office denied appellant’s claim on the grounds that he had experienced an intervening injury during his nonfederal employment, which caused a temporary aggravation of his knee condition and not a recurrence of disability.

Appellant submitted an undated request for reconsideration, which was received by the Office on May 2, 2005 and submitted medical reports from Dr. Pandya dated December 15, 2004 to April 25, 2005 updating his condition.

By decision dated May 18, 2005, the Office denied modification of the January 10, 2005 decision.

LEGAL PRECEDENT

A recurrence of disability means “an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition, which has resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.”¹ The Board has held that, in order to establish a claim for a recurrence of disability, a claimant must establish that he suffered a spontaneous material change in the employment-related condition without an intervening injury.²

When an employee claims a recurrence of disability due to an accepted employment-related injury, he has the burden of establishing by the weight of reliable, probative and substantial evidence that the recurrence of disability is causally related to the original 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. Moreover, sound medical reasoning must support the physician’s conclusion.³

The medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated or aggravated by the accepted injury.⁴ In this regard, medical evidence

¹ 20 C.F.R. § 10.5(x).

² *Phillip L. Barnes*, 55 ECAB ____ (Docket No. 02-1441, issued March 31, 2004); *see also Carlos A. Marrero*, 50 ECAB 117 (1998).

³ *See Edna M. Boyd*, 56 ECAB ____ (Docket No. 04-943, issued September 1, 2004).

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.2 (June 1995).

of bridging symptoms between the recurrence and the accepted injury must support the physician's conclusion of causal relationship.⁵

It is an accepted principle of workers' compensation law 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. Once the work-connected character of any injury has been established, the subsequent progression of that condition remains compensable so long as the worsening is not shown to have been produced by an independent nonindustrial cause and so 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.⁶

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish that he sustained a recurrence of disability on March 17, 2004 causally related to his January 17, 2003 employment injury. He has not established that his disability was caused by a spontaneous change in his accepted condition. Rather, appellant noted an intervening injury arising from his nonfederal job. He alleged that his knee condition was exacerbated after he moved a heavy couch on March 17, 2004 during his employment at 24 Hour Fitness. The Board finds that the facts, as contained in the record, do not establish the definition of recurrence of disability under the Federal Employees' Compensation Act.

Appellant has failed to demonstrate that the claimed recurrence of disability was causally related to the accepted injury, which was accepted for a bilateral knee strain and left knee arthroscopy.⁷ He was terminated from his federal employment on September 26, 2003 and released to work without restrictions on November 4, 2003. Medical evidence submitted in support of his recurrence claim, the reports of Dr. Pandya, who diagnosed an exacerbation of left knee chondromalacia and generalized psoriasis. However, he did not provide a rationalized medical opinion addressing the causal relationship between the diagnosed conditions and the accepted 2003 employment injury. In response to the Office's request for clarification, Dr. Pandya stated that appellant "apparently" experienced a temporary aggravation of his left knee condition during his employment at 24 Hour Fitness. He stated that "within reasonable medical probability [appellant] may have experienced a recurrence of his left knee chondromalacia in addition to experiencing a temporary aggravation of this condition as a result of the employment at 24 Hour Fitness." Dr. Pandya's opinion that appellant "may have experienced a recurrence" is equivocal. Moreover, his report failed to discuss the cause of his chondromalacia in terms of moving the couch on March 17, 2004. Thus, this report lacks probative value and does not support appellant's claim for a recurrence of disability.

⁵ For the importance of bridging information in establishing a claim of recurrence of disability, see *Robert H. St. Onge*, 43 ECAB 1169 (1992); *Shirloyn J. Holmes*, 39 ECAB 938 (1988).

⁶ See *Robert J. Wescoe*, 54 ECAB ____ (Docket No. 02-1479, issued October 23, 2002). See also *John R. Knox*, 42 ECAB 193 (1990).

⁷ See *Edna M. Boyd*, *supra* note 3.

Dr. Yashruti opined that appellant's condition was a combination of his original January 17, 2003 work-related injury aggravated further by the March 17, 2004 injury. However, he did not fully explain how his current diagnosed condition of left knee chondromalacia was causally related to the original 2003 injury or provide medical evidence of bridging symptoms between the recurrence and the accepted injury.⁸ When the Office asked Dr. Yashruti whether the January 17, 2003 incident caused, aggravated, precipitated or accelerated any of appellant's diagnoses, Dr. Yashruti responded that the January 17, 2003 injury was the cause, because appellant did not have any prior problems with his knees. He noted that repeated bending, squatting and lifting bags caused the injury to the left knee. However, the existence of symptoms, without explanation, does not establish a causal relationship. Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁹ Thus, the report does not support appellant's claim for a recurrence of disability.

In this case, the Office never accepted the condition of left knee chondromalacia and appellant has failed to show a causal relationship between this condition and the accepted 2003 injury. In his personal statement submitted in conjunction with his request for reconsideration, appellant stated his belief that his current disability is related to the injury which occurred on January 17, 2003 because he never recovered from the original injury. It is his burden of proof to submit the necessary medical evidence to establish a claim for a recurrence. The record does not contain a medical report providing a reasoned medical opinion that appellant sustained a recurrence beginning March 17, 2004 causally related to the January 17, 2003 employment injury. The Board accordingly finds that he did not meet his burden of proof and the Office properly denied the claim.

CONCLUSION

The Board finds that appellant failed to establish that he sustained a recurrence on or about March 17, 2004 related to his accepted January 17, 2003 employment injury.

⁸ For the importance of bridging information in establishing a claim of recurrence of disability, see *Robert H. St. Onge*, *supra* note 5; *Shirloyn J. Holmes*, *supra* note 5.

⁹ *Dennis M. Mascarenas*, 49 ECAB 215 (1997); *Donald W. Wenzel*, 56 ECAB ____ (Docket 05-146, issued March 17, 2005).

ORDER

IT IS HEREBY ORDERED THAT the May 18 and January 10, 2005 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: September 15, 2005
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board