

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PATRICIA M. MENGE and DEPARTMENT OF THE NAVY,
SUBASE BANGOR, Silverdale, WA

*Docket No. 00-1480; Submitted on the Record;
Issued April 3, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant has established that she sustained a recurrence of disability on or around July 1999, causally related to her accepted 1990 employment injury.

The Board has duly reviewed the record and finds that appellant has not established that she sustained a recurrence of disability causally related to her accepted employment injury.

Under the Federal Employees' Compensation Act,¹ an employee who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the recurrence of the disabling condition for which compensation is sought is causally related to the accepted employment injury.² As part of this burden the employee must submit rationalized medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the current disabling condition is causally related to the accepted employment-related condition³ and supports that conclusion with sound medical reasoning.⁴

Section 10.104(b)(2) provides that when an employee has received medical care as a result of the claimed recurrence, he or she should arrange for the attending physician to submit a detailed medical report, and should further arrange for the submission of similar medical reports for any examination or treatment received after returning to work.⁵ The medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated, or aggravated by

¹ 5 U.S.C. §§ 8101-8193.

² *Dennis J. Lasanen*, 43 ECAB 549, 550 (1992).

³ *Kevin J. McGrath*, 42 ECAB 109, 116 (1990).

⁴ *Lourdes Davila*, 45 ECAB 139, 142 (1993).

⁵ 20 C.F.R. § 10.104(b)(2).

the accepted injury,⁶ and should contain evidence of bridging symptoms between the recurrence and the accepted injury, which support the physician's conclusion of a causal relationship.⁷

In this case, appellant, then a 53-year-old secretary, sustained a right knee strain and right leg soft tissue injury on February 7, 1990, which was accepted by the Office of Workers' Compensation Programs. After one day off and several days of restricted duty, she returned to her usual work. On July 22, 1999 appellant filed a notice of recurrence of disability, claiming that since 1990 her knee continued to bother her, but never to the extent that she felt the need to seek medical assistance.⁸ She stated that in December 1998, while at her annual doctor's appointment, she mentioned her right knee pain to her doctor, who recommended she take aspirin and glucosamine complex. Appellant stated that this treatment seemed to help until late June or early July when her knee became inflamed and swelled up to the size of a football, at which time she sought additional medical treatment. She added that her physician had informed her that she might require surgery.

In support of her claim and in response to an Office inquiry, appellant submitted reports from her treating physicians. After the initial treatment notes from 1990, the next medical evidence in the record dates from December 20, 1994 through February 7, 1995. These medical records were submitted by appellant in connection with her prior claim for a recurrence of disability and pertain exclusively to appellant's treatment of lower back pain and sciatica, with associated right leg pain and numbness. The next report of record is a June 15, 1995 letter from James Stewart, a physician's assistant for appellant's treating physician, describing appellant's treatment beginning March 28, 1994 for left knee pain, apparently related to her having tripped on some carpeting at work. Mr. Stewart specifically noted that in reviewing appellant's chart he had found no further visits or complaints pertaining to appellant's right knee injury.

The next reports of record are from Dr. Don G. LaPlant, a Board-certified surgeon, who treated appellant on July 22, 1999, noted that her job required that she get up and down a lot and frequently climb stairs, and diagnosed right knee inflammation and overuse syndrome. On an accompanying July 30, 1999 attending physician's report, Form CA-20, Dr. LaPlant reiterated his diagnosis of overuse syndrome and indicated by checkmark that the diagnosed condition was casually related to an employment activity.

Dr. LaPlant also treated appellant on August 18, 1999, when he again noted that she had a history of falling and injuring her knee in February 1990, with problems on and off since then, and that over the last three months she had experienced increased swelling and pain. He diagnosed chronic recurrent right knee pain, noted that appellant had an "old trauma" and indicated that he suspected degenerative joint disease but needed to rule out the possibility of a

⁶ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805(2) (June 1995).

⁷ *Leslie S. Pope*, 37 ECAB 798, 802 (1986); cf. *Richard McBride*, 37 ECAB 748, 753 (1986).

⁸ Appellant had previously filed a claim for a recurrence of disability on January 12, 1995, alleging that she developed low back pain, with associated pain and numbness in her right leg, as a result of her February 7, 1990 employment injury. By decision dated June 22, 1995, the Office denied appellant's claim on the grounds that she had submitted insufficient medical evidence to establish a causal relationship between her claimed recurrence and her original accepted injury.

meniscal tear. On an accompanying attending physician's report, Form CA-20, Dr. LaPlant reiterated these diagnoses and indicated by checkmark that the diagnosed conditions were related to employment.

In his final report of record, Dr. LaPlant stated that he had reviewed appellant's chart and did not find any records of right knee consults prior to December 14, 1998, at which time appellant presented with symptoms of right knee aches and pains and intermittent swelling, but that she had been seen a number of times in the past for left knee problems. He noted that appellant next presented on August 18, 1999 for a work-related knee problem, giving a history of recurrent right knee pain and that on that date osteoarthritis was suggested, possibly due to old trauma and a small medial meniscal tear could not be ruled out. Dr. LaPlant concluded that he did not find any other specific references to appellant's right knee through her chart, and that while it was "certainly possible that an old trauma could precipitate post-traumatic osteoarthritis nine years later," it was "difficult for [him] to speculate on the exact etiology of [appellant's] knee problem."

The record also contains reports dated August 26 and September 30, 1999, from Dr. David N. Schiffman, an orthopedic surgeon to whom appellant was referred by Dr. LaPlant. Dr. Schiffman noted that appellant had a spontaneous onset of right knee swelling in May 1999 with no history of trauma or twisting event. After examining appellant and reviewing recent x-rays, he listed his differential diagnoses as medial meniscus tear, degenerative and medial compartment arthrosis or chondral defect, and indicated that appellant required arthroscopic surgery. On an accompanying surgical authorization request form, he indicated that the date of injury was February 7, 1990.

In a decision dated December 1, 1999, the Office denied the claim on the grounds that the medical evidence was insufficient to establish that appellant's right knee condition and need for surgery was a recurrence of the accepted 1990 right knee strain. The Office noted that appellant had been informed of the medical evidence necessary to prove a recurrence of disability.

The Board finds the medical evidence of record is insufficient to meet appellant's burden of proof. Other than indicating by checkmark that appellant's 1999 diagnosed right knee conditions were causally related to her employment, and noting in the history of injury that appellant reported having problems on and off since her 1990 knee injury, none of the physicians of record addressed the issue of whether appellant's right knee condition arising in 1999 was causally related to the February 7, 1990 accepted right knee strain. In addition, the Board has held that an opinion on causal relationship expressed only by checkmark, without accompanying rationale, is of no probative value.⁹ Moreover, in his most recent report of record, Dr. LaPlant specifically states that there are no records of treatment for a right knee condition until 1998, and that he cannot speculate as to the cause of her recent right knee problems.

Appellant has attributed her current right knee pain to the February 1990 injury but was informed by the Office that she was responsible for obtaining a rationalized medical report in support of the July 1999 recurrence of disability. However, appellant has failed to submit medical evidence, which discusses her current right knee pain and the accepted right knee

⁹ See *Alberta S. Williamson*, 47 ECAB 569 (1996); *Lester Covington*, 47 ECAB 539 (1996).

condition and then explains with medical rationale how the 1999 recurrence was causally related to the employment-related injury in 1990. Inasmuch as appellant has failed to submit probative medical evidence establishing a connection between her current condition and the 1990 right knee strain, the Office properly denied her claim for compensation.

Appellant argues on appeal that she has never had a left knee problem that Dr. LaPlant's records are in error in that they reference the wrong knee and that Dr. LaPlant has agreed with this assertion. The record contains no evidence from him, however, indicating that his reports mistakenly referenced the left knee instead of the right knee.

With respect to appellant's request for authorization for right knee surgery, before the Office can be required to pay for medical treatment, appellant must establish that such treatment is for a condition causally related to the employment injury. In this case, appellant has provided no probative, relevant medical evidence establishing a causal connection between the February 1990 injury and the claimed July 1999 recurrence. Inasmuch as the Office has not accepted the July 1999 recurrence and appellant has failed to submit medical evidence of causation, appellant is not entitled to authorization for medical treatment.

The decision of the Office of Workers' Compensation Programs dated December 1, 1999 is affirmed.

Dated, Washington, DC
April 3, 2001

Michael J. Walsh
Chairman

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member