

FACTUAL HISTORY

Appellant, a 29-year-old maintenance worker, was injured on May 13, 1982 while digging a hole with a shovel. He filed a claim for benefits, which OWCP accepted for right knee sprain, right knee dislocation and meniscus tear of the right knee.

Appellant underwent two surgeries on his right knee: a lateral meniscectomy on September 9, 1982; and an arthroscopic procedure on April 12, 1982.

In a May 23, 1991 report, Dr. Michael A. Florio, Board-certified in orthopedic surgery, stated that appellant did not have any symptoms of pain or discomfort in his right knee. Appellant related that, when he engaged in strenuous activities like playing football or putting a roof on the house, his right knee ached slightly. Dr. Florio stated that there was no catching, locking, swelling or giving way of the right knee. He stated that on physical examination he had an essentially normal gait. Dr. Florio noted mild arthritic changes in the right knee in addition to an old osteophyte/spur which was probably a residual congenital deformity. He noted that appellant had undergone resection/excision of the medial and lateral meniscus of the right knee and advised that x-rays were normal. Dr. Florio concluded that, at the present time, appellant's only work restrictions would be extended periods of standing or working in a kneeling or squatting position.

On March 5, 2012 appellant filed a Form CA-2a claim for benefits, alleging that he sustained a recurrence of disability on February 1, 2012 which was causally related to his accepted May 13, 1982 employment injury. He sought reimbursement for medical care he received on February 16, 2012.²

By letters dated May 15 and 23, 2012, OWCP advised appellant to provide additional medical and factual evidence in support of his claim for a recurrence of disability as of February 1, 2012. It advised him to provide a comprehensive medical report which included objective findings relative to the right knee, the diagnosis or diagnoses of the right knee condition(s), results of any diagnostics tests and the physician's well-rationalized opinion as to how his present knee condition was causally related to the May 13, 1982 employment injury.

In a report dated June 21, 2012, Dr. Marshall S. Lewis, a specialist in orthopedic surgery, stated findings on examination and reviewed appellant's medical history. He noted a blocked tibiofemoral rotation with exquisite tenderness to the lateral compartment of the right knee, with crepitation to the lateral compartment with tibiofemoral rotation. Appellant also had gross tenderness over the medial joint line and lateral joint line; he was unable to execute perform pivot shifting due to crepitation in the lateral compartment of the right knee. Dr. Lewis advised that he had a grossly antalgic gait and a varus deformity.

Appellant underwent x-rays of the right knee which showed degenerative changes/osteoarthritis, bone on bone in the lateral compartment with bone shedding, while the medial compartment was reasonably well preserved. Dr. Lewis diagnosed recurrent internal derangement of the knee with gross degenerative changes to the lateral compartment which are

² Appellant also indicated that he was not working as he had been laid off from work on January 31, 2011.

now bone on bone. With regards to causation, he stated that appellant had a prior injury and prior surgery to the right knee, with residual symptoms; he opined that without any other history of trauma to the knee these appeared to be the long-term sequelae of the original injury and subsequent cumulative trauma over time to the point where his right knee had worn out. Dr. Lewis therefore concluded that, without any other known cause for the knee to degenerate, his condition stemmed from the May 13, 1982 employment injury.

By decision dated July 24, 2012, OWCP denied appellant's claim, finding that the medical evidence was insufficient to establish that he sustained a recurrence of his May 13, 1982 work injury as of February 1, 2012.

By letter dated July 30, 2012, appellant, through his attorney, requested an oral hearing, which was held on October 17, 2012. He stated at the hearing that his right knee was essentially asymptomatic until four or five years previously, at which time he began having difficulty with the knee. Appellant stated that he began having problems with swelling and popping in the knee, with tenderness and looseness. He related that his deteriorating right knee condition caused him to seek medical treatment.

By decision dated December 21, 2012, OWCP's hearing representative affirmed the July 24, 2012 OWCP 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.³ A person 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 disability for which she claims compensation is causally related to the accepted injury. This burden of proof requires that an employee furnish medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the employment injury and supports that conclusion with sound medical reasoning.⁴ Where no such rationale is present, medical evidence is of diminished probative value.⁵

In order to establish that a claimant's alleged recurrence of the condition was caused by the accepted injury, medical evidence of bridging symptoms between her present condition and the accepted injury must support the physician's conclusion of a causal relationship.⁶

³ *R.S.*, 58 ECAB 362 (2007); 20 C.F.R. § 10.5(x).

⁴ *I.J.*, 59 ECAB 408 (2008); *Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

⁵ *See Ronald C. Hand*, 49 ECAB 113 (1957); *Michael Stockert*, 39 ECAB 1186, 1187-88 (1988).

⁶ *Mary A. Ceglia*, 55 ECAB 626 (2004).

OWCP's procedure manual provides that, after 90 days of release from medical care (based on the physician's statement or instruction to return as needed, or computed by the claims examiner from the date of last examination), a claimant is responsible for submitting an attending physician's report, which contains a description of the objective findings and supports causal relationship between the claimant's current condition and the previously accepted work injury.⁷

ANALYSIS

In the instant case, appellant has failed to submit any medical opinion containing a rationalized, probative report which relates his claimed recurrence of disability for work as of February 1, 2012 to his accepted right knee condition. For this reason, he has not discharged his burden of proof to establish his claim that he sustained a recurrence of disability as a result of his accepted employment condition.

OWCP accepted appellant's May 13, 1982 employment injury for right knee sprain, right knee dislocation and meniscus tear of the right knee. The record contains no medical reports from 1991 until June 21, 2012, the date of Dr. Lewis' report. Dr. Lewis did not provide a rationalized, probative medical opinion indicating that appellant sustained a recurrence of disability on February 1, 2012 causally related to his accepted May 13, 1982 right knee injury. He stated that appellant had arthritic, degenerative changes in his right knee as demonstrated by examination and x-ray findings. Dr. Lewis indicated that, without any other history of trauma to the knee, his May 1982 injury and subsequent surgeries, with residual symptoms, appeared to be the long-term sequelae of the original injury. He opined that appellant had experienced long-term, cumulative trauma to his right knee to the point where it had essentially worn out. In lieu of any other known cause for the knee to degenerate, Dr. Lewis believed that the current condition of appellant's right knee stemmed from the May 13, 1982 employment injury.

Dr. Lewis' opinion on causal relationship is of limited probative value in that he did not provide adequate medical rationale in support of his conclusions.⁸ He did not describe any alleged recurrence in detail or how the May 13, 1982 work accident would have been competent to cause the claimed recurrence of disability. Dr. Lewis opined that appellant's 1982 right knee injury "appeared" to be the cause of his claimed recurrence because there was no other traumatic incident in his medical history. These statements are broad and vague as they do not explain whether appellant's accepted May 13, 1982 employment injury contributed to his claimed condition and/or disability as of February 1, 2012. This explanation is particularly important as there is no bridging evidence of medical treatment between 1983 and the June 21, 2012 report from Dr. Lewis. Further, his opinion is equivocal in that he appeared too partially attribute appellant's right knee condition to cumulative trauma and degeneration over a period of time. Although Dr. Lewis refers to the initial May 13, 1982 work injury, he failed to sufficiently

⁷ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.5(b) (January 1995).

⁸ *William C. Thomas*, 45 ECAB 591 (1994).

explain whether appellant required medical treatment beginning February 1, 2012 due to the accepted injury.⁹

Appellant has not submitted a physician's reasoned opinion in which the physician explains the reasons why his condition as of February 1, 2012 was causally related to the May 13, 1982 work injury. For these reasons, the medical evidence is insufficient to establish a recurrence of a medical condition causally related to the accepted right knee condition.

CONCLUSION

The Board finds that appellant has not sustained a recurrence of disability on February 1, 2012 causally related to his accepted May 13, 1982 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the December 21, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 23, 2013
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board

⁹ See *Mary A. Ceglia*, 55 ECAB 656 (2004) (appellant has the burden of furnishing medical evidence from a 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 rationale).