

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JEWELLEAN D. STEPHENS and DEPARTMENT OF VETERANS  
AFFAIRS, MEDICAL CENTER, Dayton, OH

*Docket No. 98-1555; Submitted on the Record;  
Issued December 23, 1999*

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DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
BRADLEY T. KNOTT

The issue is whether appellant has established that she sustained a recurrence of disability on or after December 17, 1997 causally related to her October 28, 1997 employment-related contusion of the right knee.

On October 28, 1997 appellant, then a 57-year-old nurse, filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-1) alleging that she injured her right knee when she struck it on a door. The Office of Workers' Compensation Programs accepted the claim for a right knee contusion.

On January 6, 1998 appellant filed a notice of recurrence of disability<sup>1</sup> on and after December 7, 1997 causally related to her October 28, 1997 employment injury.

In a January 5, 1998 letter and slip, Dr. Ronald J. Moser, an attending Board-certified orthopedic surgeon, diagnosed internal derangement of the right knee, traumatic chondromalacia of the right knee, traumatic synovitis of the right knee and popliteal nerve entrapment of the right knee. Dr. Moser, in a January 5, 1998 letter and prescription slip, recommended video arthroscopy with chondroplasty and medial meniscectomy and neurolysis of the popliteal nerve of the right knee surgery. He further noted that appellant injured her right knee on October 28, 1997 when a steel door struck her right knee and she has continued to have problems with her right knee since the incident.

In a letter dated January 6, 1998, appellant requested authorization to have surgery.

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<sup>1</sup> On the form appellant indicated the recurrence date as December 17, 1997 and that she had not stopped work. Appellant also indicated that she received medical treatment for her recurrence of disability on December 17 and 29, 1997 and January 5, 1998.

By letter dated January 22, 1998, the Office advised appellant that the evidence of record was currently insufficient to establish a recurrence of disability. The Office advised appellant to submit factual evidence regarding the recurrence as well as rationalized medical evidence addressing the relationship between her alleged recurrence of disability on and after December 17, 1997 and her accepted October 28, 1997 employment injury.

In a letter dated February 11, 1998, Dr. Donald W. Ogletree, appellant's attending physician, diagnosed internal derangement of the right knee, traumatic synovitis of the right knee, chondromalacia of the right patella and popliteal nerve neuropathy and entrapment in the popliteal fossa. He noted that appellant initially injured her right knee at work while moving and her knee hit a door. Dr. Ogletree stated that appellant was seen again on December 12, 17 and 29, 1997 and January 5 and 12 and February 11, 1998 for problems with her right knee.

By letter dated February 23, 1998, the Office requested additional information from Dr. Moser regarding appellant's knee condition. The Office also advised Dr. Moser about the definition of a recurrence.

Dr. William G. Clancy, in a February 23, 1998 report noted that appellant had injured her knee at work on October 28, 1997 and that she has had intermittent swelling and pain in her right knee since the employment injury. Based upon x-rays and a physical examination, he opined that appellant had a medial meniscus tear of the right knee and recommended a magnetic resonance imaging (MRI) scan to confirm this diagnosis.

In a report dated February 28, 1998, Dr. Clancy, noted that appellant injured her knee on October 25, 1997 by hitting it on a door and that she continued to have pain and swelling in her knee despite treatment she received which offered temporary relief. Dr. Clancy, based upon a MRI scan, diagnosed a right anterior horn lateral meniscal tear and recommended arthroscopic partial meniscectomy.

In a March 4, 1998 admission report, Dr. Clancy noted that appellant had injured her right knee at work on October 28, 1997 by falling down and banging her knee. He noted that since the accident she had "ongoing intermittent swelling and pain in her right knee" with increasing pain, particularly when the knee was bent. Dr. Clancy diagnosed an anterolateral meniscal tear, symptomatic and that appellant "elected to have an arthroscopic evaluation of the knee and partial meniscectomy with possible debridement of the lateral femoral condyle osteophyte."

In a March 4, 1998 operative report, Dr. Clancy diagnosed an anterior lateral meniscus tear of the right knee and performed right knee arthroscopy and partial anterior horn lateral meniscectomy of the right knee.

Dr. Clancy in a March 18, 1998 report, opined that appellant was doing well following her right knee arthroscopy.

By decision dated April 14, 1998, the Office denied appellant's claim for a recurrence of disability. In the attached memorandum, the Office noted that none of the medical reports submitted by appellant provide any rationale stating how appellant's condition of anterior

meniscal tear in her right knee was causally related to her accepted October 28, 1997 employment injury.<sup>2</sup>

The Board finds that appellant has not established that she sustained a recurrence of disability on or after December 17, 1997 causally related to her October 28, 1997 employment-related contusion of the right knee.

Where appellant claims a recurrence of disability due to an accepted employment-related injury, he or she has the burden of establishing by the weight of the substantial, reliable and probative evidence that the subsequent disability for which she 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.<sup>3</sup>

In this case, appellant has not submitted rationalized medical evidence sufficient to establish that she sustained a recurrence of disability on or after December 17, 1997 causally related to her accepted October 28, 1997 employment injury. In support of her claim appellant submitted a disability slip and a prescription slip dated January 5, 1998 from Dr. Moser who diagnosed internal derangement of the right knee, traumatic chondromalacia of the right knee, traumatic synovitis of the right knee and popliteal nerve entrapment of the right knee and recommended video arthroscopy with chondroplasty and medial meniscectomy and neurolysis of the popliteal nerve of the right surgery. The disability and prescription slips are insufficient to establish appellant's burden inasmuch as they merely provided diagnoses of appellant's condition and recommended surgery to treat her condition and failed to discuss whether or how the diagnosed conditions were caused by the October 28, 1997 employment injury.<sup>4</sup>

Appellant also submitted a letter dated January 5, 1998 from Dr. Moser. In the letter, he diagnosed internal derangement of the right knee, traumatic chondromalacia of the right knee, traumatic synovitis of the right knee and popliteal nerve entrapment of the right knee and noted that she continued to have problems with her knee since the October 28, 1997 employment injury. Dr. Moser's letter is unrationalized as it fails to provide any explanation or rationale beyond noting that appellant had continued to have problems with her knee since her accepted employment injury of a right knee sprain. Thus, his opinion is insufficient to meet appellant's burden of proof.<sup>5</sup>

The reports of Drs. Ogletree and Clancy are also insufficient to meet appellant's burden of proof. Dr. Ogletree noted that appellant had injured her knee on October 28, 1997 at work

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<sup>2</sup> Subsequent to the Office's decision, appellant submitted a May 18, 1998 report from Dr. Clancy and an April 14, 1998 treatment note and an April 20, 1998 treatment plan from Dr. Frank Mannariono.

<sup>3</sup> *Louise G. Malloy*, 45 ECAB 613 (1994); *Lourdes Davila*, 45 ECAB 139 (1989); *Robert H. St. Onge*, 43 ECAB 1169 (1992).

<sup>4</sup> *Daniel Deparini*, 44 ECAB 657 (1993).

<sup>5</sup> *Debra S. King*, 44 ECAB 203 (1992); *Salvatore Dante Roscello*, 31 ECAB 247 (1979).

and diagnosed an internal derangement of the right knee, traumatic synovitis of the right knee, chondromalacia of the right patella and popliteal nerve neuropathy and entrapment in the popliteal fossa. He indicated that he had treated appellant for problems with her knee on December 12, 17 and 29, 1997, January 5 and 12, and February 11, 1998, but offered no opinion as to the cause of appellant's disability. Dr. Clancy in his reports dated February 23 and 28, and March 4, 1998 diagnosed a right anterior horn lateral meniscal tear. He also noted that appellant had injured her knee at work and that since the injury had "ongoing intermittent swelling and pain in her right knee." In a March 18, 1998 report, he indicated that appellant was doing well following her surgery. Dr. Clancy failed to offer an opinion as to the causal relationship between appellant's disability and her accepted employment injury beyond noting that she had injured her knee at work. Thus, since these opinions fail to address the causal relation of appellant's disability to her accepted employment injury of right knee sprain, they are insufficient to establish appellant's burden.

Although the Office advised appellant of the type of medical evidence need to establish her claim for a recurrence of disability, appellant failed to submit medical evidence relevant to the request. Accordingly, the Board finds that appellant has not established that she sustained a recurrence of disability on or after December 17, 1997 causally related to her accepted October 28, 1997 employment injury.

The decision of the Office of Workers' Compensation Programs dated April 14, 1998 is hereby affirmed.

Dated, Washington, D.C.  
December 23, 1999

Michael J. Walsh  
Chairman

David S. Gerson  
Member

Bradley T. Knott  
Alternate Member