

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOHN W. PILLARD and DEPARTMENT OF THE ARMY, IRWIN ARMY
HOSPITAL, RADIOLOGY DEPARTMENT, Fort Riley, Kans.

*Docket No. 97-1379; Submitted on the Record;
Issued January 5, 1999*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant has established that he sustained a recurrence of disability commencing July 1, 1996 causally related to his February 10, 1994 employment injury.

The Board has duly reviewed the case record in this appeal and finds that appellant has failed to establish that he sustained a recurrence of disability commencing July 1, 1996 causally related to his February 10, 1994 employment injury.

On February 11, 1994 appellant, then an x-ray technician, filed a traumatic injury claim (Form CA-1) alleging that on February 10, 1994, he twisted his left knee. The Office of Workers' Compensation Programs accepted appellant's claim for left knee strain and torn left medial meniscus. The Office also authorized a partial medical meniscectomy of the left knee, which was performed on May 3, 1994.¹

On July 13, 1995 the Office granted appellant a schedule award for a two percent impairment of the left lower extremity for the period June 13 through July 23, 1995.

By letter dated October 22, 1996, the Office advised appellant to submit a notice of recurrence of disability (Form CA-2a) and factual and medical evidence supportive of his claim based on its receipt of an October 30, 1996 request for approval of arthroscopic surgery by Dr. Patrick J. Grablin on appellant's left knee. On September 24, 1996 appellant filed a Form CA-2a alleging that he sustained a recurrence of disability on July 1, 1996.

By decision dated December 5, 1996, the Office found the evidence of record insufficient to establish that the claimed recurrence of disability commencing July 1, 1996 was causally related to the February 10, 1994 employment injury. By letter dated December 12, 1996, appellant requested reconsideration of the Office's decision accompanied by medical evidence.

¹ Appellant returned to work on May 23, 1994.

By decision dated January 29, 1997, the Office denied appellant's request for modification based on a merit review of the claim.

An individual 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 compensation is claimed is causally related to the accepted injury. This burden includes the necessity of furnishing medical evidence from a qualified 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.²

In this case, appellant has not submitted sufficient rationalized medical evidence establishing that his need for left knee surgery on October 31, 1996 was caused or contributed by the February 10, 1994 employment injury. In support of his recurrence claim, appellant submitted the August 5, 1996 medical treatment notes of Dr. E. Dean Bray, a general practitioner, revealing that he had a strain of the left medial collateral ligament and that his condition was becoming worse. Appellant also submitted the medical treatment notes of Dr. Grablin, covering the period August 14 through November 5, 1996 regarding his left knee condition. The treatment notes of Dr. Bray and Dr. Grablin are insufficient to establish appellant's burden because they failed to explain how appellant's current left knee condition is due to the February 10, 1994 employment injury.

Further, appellant submitted the September 12, 1996 attending physician's report (Form CA-20) of Dr. Samuel S. Jang, an osteopath, providing a history of the February 10, 1994 employment injury, his findings on physical examination and a diagnosis of a strain of the medial collateral ligament ruling out torn left medial meniscus. Dr. Jang indicated that appellant's condition was caused or aggravated by an employment activity by placing a checkmark in the box marked "yes." The Board has held that an opinion on causal relationship, which consists only of a physician checking "yes" to a medical form report question on whether the claimant's disability was related to the history is of diminished probative value. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.³ Inasmuch as Dr. Jang failed to provide any rationale for his conclusion, his report is insufficient to establish appellant's burden.

Additionally, appellant submitted the September 19, 1996 treatment notes of Brent F. Taylor, a physical therapist, concerning his left knee condition. The Board finds that the treatment notes of appellant's physical therapist are of no probative value inasmuch as a physical therapist is not a physician under the Federal Employees' Compensation Act and, therefore, is not competent to give a medical opinion.⁴

² *Louise G. Malloy*, 45 ECAB 613 (1994); *Lourdes Davila*, 45 ECAB 139 (1993); *Robert H. St. Onge*, 43 ECAB 169 (1992).

³ *Lucrecia M. Nielson*, 41 ECAB 583, 594 (1991).

⁴ *Jerre R. Rinehart*, 45 ECAB 518 (1994); *Barbara J. Williams*, 40 ECAB 649 (1989); *Jane A. White*, 34 ECAB 515 (1983); see also 5 U.S.C. § 8101(2).

Appellant submitted the October 31, 1996 hospital report of Dr. Grablin regarding the left knee arthroscopy and partial medial meniscectomy that was performed on that date. Dr. Grablin's report revealed a postoperative diagnosis of left knee medial meniscus tear. His October 31, 1996 discharge notes reiterated his diagnosis and provided appellant's restrictions and medications. Dr. Grablin's reports and discharge notes are insufficient to establish appellant's burden because they failed to address how appellant's left knee medial meniscus tear was caused by the February 10, 1994 employment injury.

The nursing discharge summary dated October 31, 1996 indicated appellant's restrictions, medications, medical treatment and follow-up care from Dr. Grablin. Appellant submitted Dr. Grablin's October 31, 1996 x-ray images of his left knee. The nursing discharge summary and Dr. Grablin's x-ray images are insufficient to establish appellant's burden because they failed to indicate whether appellant had a current left knee condition caused by the February 10, 1994 employment injury.

Dr. Jang's December 13, 1996 medical report revealed a history of the February 10, 1994 employment injury, appellant's medical treatment and complaints and the physical requirements of appellant's position as an x-ray technician. Dr. Jang opined that the repetitive motions required in appellant's position were the direct cause of the recurrent injury to his left knee. Dr. Jang's opinion is insufficient to establish appellant's burden inasmuch as he failed to provide any medical rationale explaining how or why the physical requirements of appellant's job caused his current left knee condition.

As noted above, part of appellant's burden of proof includes the submission of reasoned medical evidence, which addresses whether the claimed disability is causally related to the employment injury. Although the Office advised appellant of the type of medical evidence needed to establish his claim for a recurrence of disability, appellant failed to submit medical evidence responsive to the Office's request. Accordingly, the Board finds that appellant has not established that he sustained a recurrence of disability commencing July 1, 1996 causally related to his February 10, 1994 employment injury.

The January 29, 1997 and December 5, 1996 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, D.C.
January 5, 1999

David S. Gerson
Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member