

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of WILLIAM J. MAGNUSKI and U.S. POSTAL SERVICE,  
POST OFFICE, Staten Island, N.Y.

*Docket No. 97-1741; Submitted on the Record;  
Issued March 10, 1999*

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DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,  
BRADLEY T. KNOTT

The issue is whether appellant has established a recurrence of disability based on his September 29, 1975 work-related injury.

On September 29, 1975 appellant, then a 25-year-old letter carrier, filed a claim for compensation alleging that he injured his right knee on that date while in the performance of duty.

On May 15, 1978 the Office of Workers' Compensation Programs accepted appellant's claim for right knee medial meniscus tear.

On August 30, 1979 the Office awarded appellant a 15 percent permanent impairment of the right leg. The award ran from October 19, 1977 to August 17, 1978.

On June 14, 1996 appellant notified the Office that he wished to reopen his claim for additional medical treatment based on his treating physician's opinion that appellant required a total knee replacement.

On July 19, 1996 the Office notified appellant that he was required to submit a claim for recurrence of disability (Form CA-2a) in order to reopen his claim.<sup>1</sup> The Office also advised appellant to submit an opinion, supported by medical rationale, as to whether and how his current condition was causally related to the work-related injury.

On October 15, 1996 appellant filed a claim for recurrence of disability stating that the injury was the same as the original injury dated September 29, 1975.

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<sup>1</sup> In response to a congressional inquiry, the Office stated that appellant's case had been closed since February 14, 1996 because the case had been inactive since 1993.

On March 6, 1997 the Office, in a decision, denied appellant's claim for recurrence of disability.

The Board finds that the appellant has not established that he sustained a recurrence of disability.

Appellant has the burden of establishing by the weight of the substantial, reliable and probative evidence, a causal relationship between his recurrence of disability commencing on or about October 15, 1996 and his September 29, 1975 accepted injury.<sup>2</sup> This burden includes the necessity of furnishing 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 employment factors and supports that conclusion with sound medical reasoning.<sup>3</sup>

In this case, Dr. Nadubeethi Jayaram, appellant's treating physician and Board-certified in orthopedic surgery, stated in a February 28, 1992 treatment note that appellant related to him that he had fallen that day and reinjured his right knee. Dr. Jayaram requested that a magnetic resonance imaging (MRI) scan be taken. However, in a treatment note dated February 5, 1993, the doctor stated that appellant related "that he did not fall and reinjure the right knee," but that he had had discomfort in the right knee for several years and persistent pain since the original injury. In a medical report dated May 21, 1993, Dr. Matthew J. Stern, Board-certified in radiology, stated that the MRI taken on May 19, 1993 revealed changes in appellant's "medial meniscus, consistent with post meniscectomy appearance." Dr. Stern added that "there was no definite recurrent tear," but that a "superimposed more recent tear involving the posterior horn medial meniscus cannot be entirely excluded." None of these reports provided rationalized medical opinion establishing a causal relationship between appellant's current condition and his work-related injury. Dr. Jayaram's February 28, 1992 report in fact supports an entirely independent right knee injury and thus provides no probative value to appellant's claim. Further, Dr. Jayaram's statement of a year later that appellant did not fall and reinjure his knee in February 1992 fails to support that appellant's current condition was related to his work-related injury. In addition, appellant's May 1993 MRI revealed "no definite recurrent tear." These reports are not sufficient to meet appellant's burden of proof as they fail to establish a causal relationship between appellant's current condition and his work-related injury. An award of compensation may not be based on surmise, conjecture or speculation or upon appellant's belief that there is a causal relationship between his condition and his employment. To establish causal relationship, appellant must submit a physician's report in which the physician reviews the factors of employment identified by appellant as causing his condition and, taking these factors into consideration as well as findings upon examination of appellant and appellant's medical history, states whether these employment factors caused or aggravated appellant's diagnosed conditions and present medical rationale in support of his opinion. Appellant failed to submit such evidence and therefore failed to discharge his burden of proof.<sup>4</sup>

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<sup>2</sup> *Mark A. Cacchione*, 46 ECAB 148 (1994).

<sup>3</sup> *Id.*

<sup>4</sup> *Corlisa L. Sims (Smith)*, 46 ECAB 172 (1994).

The March 6, 1997 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, D.C.  
March 10, 1999

George E. Rivers  
Member

David S. Gerson  
Member

Bradley T. Knott  
Alternate Member