

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ELBERT R. BOLDEN and U.S. POSTAL SERVICE,
POST OFFICE, Philadelphia, PA

*Docket No. 98-332; Submitted on the Record;
Issued October 1, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant has met his burden of proof in establishing a recurrence of disability on or after June 21, 1997 causally related to his accepted December 30, 1996 left calf strain.

On December 30, 1996 appellant, then a 49-year-old letter carrier, experienced pain in his left calf while delivering mail. The Office of Workers' Compensation Programs accepted appellant's claim for a strain of the left calf. Appellant worked limited duty following the injury and returned to full duty in March 1997.

On June 21, 1997 appellant filed recurrence of disability claims alleging that his pain and swelling in his left knee were causally related to his accepted December 30, 1996 condition.

In support of his claim, appellant submitted a July 7, 1997 medical note from Dr. Bernard Brownstein, a Board-certified family practitioner. He noted that appellant had been under his care on and off since 1980 and had a long history of left knee problems related to his job. Dr. Brownstein was reinjured on December 30, 1996 and was seen on January 17, 1997 with a diagnosis of left medical collateral ligament strain and sprain. He noted that appellant was again seen on June 23, 1997 and that his knee was tense with an obvious effusion. Dr. Brownstein opined that appellant would need surgery.

On July 28, 1997 appellant called the Office requesting authorization for surgery. He was told that additional medical evidence and a statement describing the circumstances of the recurrences were needed. Appellant stated that he would supply the information the following day. No additional information was received.

By letter dated August 27, 1997, the Office advised appellant of the deficiencies of his claim. The Office requested that appellant submit a statement and rationalized medical evidence

addressing whether his present condition was causally related to his December 30, 1996 left calf strain.

Appellant submitted an August 5, 1997 magnetic resonance imaging scan of his left knee along with a referral for surgery to repair a torn medial meniscus, left knee.

On September 10, 1997 the Office again informed appellant that the medical evidence was insufficient to establish his recurrence of disability claim as it failed to provide a physician's opinion on the cause of appellant's current condition.

Office notes from HealthCare Network, dating from December 30, 1996 through August 21, 1997, were submitted. An August 21, 1997 note provided that appellant started experiencing a pulling sensation with secondary pain and swelling in his left knee while working in December 1996. The physical examination revealed a mild effusion and mild synovitis of the left knee. No opinion on causal relationship was provided.

On October 1, 1997 appellant underwent arthroscopic surgery of his left knee.

In a decision dated September 29, 1997, the Office rejected appellant's recurrence of disability claims, finding that the evidence of record failed to establish a causal relationship between the December 30, 1996 employment injury and appellant's claimed recurrence of disability.

The Board finds that appellant has not met his burden of proof in establishing that his medical condition on and after June 21, 1997 is causally related to an accepted December 30, 1996 left calf strain.

When an employee claims a continuing disability causally related to an accepted employment injury, he or she has the burden of establishing by the weight of the reliable, probative and substantial medical evidence that the claimed recurrence of disability is causally related to the accepted injury. As part of this burden, appellant must submit rationalized medical evidence based on a complete and accurate factual and medical background showing causal relationship.¹ The opinion of the physician must be based on a complete factual and medical background of the claimant,² must be one of reasonable medical certainty³ and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁴ An award of compensation may not be made on the basis of surmise, conjecture, or speculation or on appellant's unsupported belief of causal relation.⁵

¹ See *Armando Colon*, 41 ECAB 563 (1990).

² *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

³ See *Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁴ See *William E. Enright*, 31 ECAB 426, 430 (1980).

⁵ *Ausberto Guzman*, 25 ECAB 362 (1974).

As applied to this case, in order to establish causal relationship, appellant must submit sufficient rationalized medical evidence explaining how and why the December 30, 1996 injury, which the Office accepted for a left calf strain, would cause or contribute to his disability claimed on and after June 21, 1997.

Appellant has not submitted sufficient medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, has concluded that he has any condition or disability causally related to his December 30, 1996 employment injury. In support of his claim, appellant submitted a July 7, 1997 medical note from Dr. Brownstein and office notes from HealthCare Network. While this evidence supports the fact that appellant had injured his left knee after the date of the claimed recurrences, they do not address how appellant's accepted left calf strain caused or contributed to his left knee condition, especially in light of Dr. Brownstein's history of left knee problems since 1980.

As neither Dr. Brownstein nor the office notes from HealthCare Network provided an opinion on whether appellant's left knee condition was causally related to the December 30, 1996 employment injury, the reports are insufficient to meet appellant's burden of proof.⁶ Appellant was advised of the deficiencies in the claim and had failed to provide the requested information. This included a request that appellant submit rationalized medical evidence addressing how his current condition would be related to his December 30, 1996 work injury. It is not enough for appellant to allege a causal relationship between his work and his stated condition; evidence of the nature of any disabling condition and its relationship to a particular employee's work can only be given by a physician fully acquainted with the relevant facts and circumstances of the employment injury and the medical findings. Thus, as a lay person, appellant's opinion that his current left knee condition is causally related to his December 30, 1996 employment injury has no probative value on the medical issue.⁷ Appellant, therefore, has not provided probative medical evidence sufficient to establish that he sustained a recurrence of disability causally related to his December 30, 1996 employment injury.

⁶ *Lucrecia M. Nielsen*, 42 ECAB 583 (1991).

⁷ *Birger Areskog*, 30 ECAB 571 (1979); *see also James A. Long*, 40 ECAB 538 (1989).

The decision of the Office of Workers' Compensation Programs dated September 29, 1997 is hereby affirmed.⁸

Dated, Washington, D.C.
October 1, 1999

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

⁸ Following the date of the appeal on November 12, 1997, the Office issued a subsequent decision on January 7, 1999 pursuant to a request for a hearing. The Board has held that the Office does not have jurisdiction to issue a decision on a request for a hearing while the case is pending before the Board on the same issue. Accordingly, the January 7, 1999 decision is null and void; see *Russell E. Lerman*, 43 ECAB 770 (1992); *Douglas E. Billings*, 41 ECAB 880 (1990).