

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of ANTONIO L. CONS and U.S. POSTAL SERVICE,  
POST OFFICE, Avondale, AZ

*Docket No. 99-1617; Submitted on the Record;  
Issued July 13, 2000*

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DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof in establishing that his left knee condition is causally related to factors of his employment or his April 7, 1998 employment injury.

On August 31, 1998 appellant, then a 44-year-old letter carrier, filed a claim for his left knee condition, for which he had undergone arthroscopic surgery. He stated that he had problems with both knees dating back to 1989, which were aggravated by his job activities such as bending, stooping, hyperextending, banging into his jeep and twisting. Appellant indicated that on April 7, 1998 he twisted his left knee while stepping down from a curb. He stated that he had limited movement and continued swelling in his knee. Appellant underwent arthroscopic surgery on his left knee in May 1998.

In an October 5, 1998 letter, the Office of Workers' Compensation Programs advised appellant that additional medical evidence was needed to diagnose his left knee condition and to establish that the left knee condition was causally related to his employment. The Office gave appellant 30 days to submit the requested evidence. In an October 23, 1998 decision, the Office denied appellant's claim on the grounds that he had not established that his claimed condition was causally related to his April 7, 1998 employment injury. Appellant subsequently submitted medical evidence pursuant to the Office's October 5, 1998 letter. In a January 11, 1999 decision, the Office noted that it had erroneously issued the October 5, 1998 decision before the end of the 30 days it had given appellant to submit new evidence. The Office indicated that it was, therefore, reviewing appellant's case on its own motion. The Office denied appellant's claim on the grounds that the medical evidence was insufficient to establish that his left knee condition was causally related to his employment.

The Board finds that the case is not in posture for decision.

A person who claims benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing the essential elements of his claim. Appellant has the burden of establishing by reliable, probative and substantial evidence that his medical condition was causally related to a specific employment incident or to specific conditions of employment.<sup>2</sup> As part of such burden of proof, rationalized medical opinion evidence showing causal relation must be submitted.<sup>3</sup> The mere fact that a condition manifests itself or worsens during a period of employment does not raise an inference of causal relationship between the condition and the employment.<sup>4</sup> Such a relationship must be shown by rationalized medical evidence of causal relation based upon a specific and accurate history of employment incidents or conditions which are alleged to have caused or exacerbated a disability.<sup>5</sup>

In a May 22, 1998 report, Dr. Sherwood K. Duhon, an orthopedic surgeon, indicated that appellant's arthroscopic surgery showed chondromalacia of the medial and patellofemoral compartments, medial meniscus tear and loose body formation. In an October 30, 1998 report, Dr. Duhon stated that appellant had an employment injury on April 7, 1998. He indicated that appellant had preexisting chondromalacia and degenerative changes in the left knee. Dr. Duhon pointed out, however, that appellant had a meniscal tear, which, because of the sharp increase in symptoms, would be consistent with a new onset or new injury. He concluded that the April 7, 1998 employment injury was an exacerbation of the preexisting condition. This report is not contradicted by any other medical report of record. Dr. Duhon's report does not have sufficient probative value to establish appellant's claim. However, his report has sufficient rationale and probative value to require further development of the medical evidence.<sup>6</sup> The case must, therefore, be remanded for further development.

On remand, the Office should refer appellant, together with a statement of accepted facts and the case record, to an appropriate physician for an examination. The physician should provide a diagnosis of appellant's left knee condition and give his opinion on whether appellant's condition was caused or aggravated, in whole or in part, by appellant's April 7, 1998 employment injury and by the other factors of his employment. After further development as it may find necessary, the Office should issue a *de novo* decision.

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Margaret A. Donnelly*, 15 ECAB 40, 43 (1963).

<sup>3</sup> *Daniel R. Hickman*, 34 ECAB 1220, 1223 (1983).

<sup>4</sup> *Juanita C. Rogers*, 34 ECAB 544, 546 (1983).

<sup>5</sup> *Edgar L. Colley*, 34 ECAB 1691, 1696 (1983).

<sup>6</sup> *John J. Carlone*, 41 ECAB 354 (1989).

The decision of the Office of Workers' Compensation Programs, dated January 11, 1999, is hereby set aside and the case remanded for further development as set forth in this decision.

Dated, Washington, D.C.  
July 13, 2000

David S. Gerson  
Member

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member