

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of HOWARD D. ASPINWALL and DEPARTMENT OF LABOR,
MINE SAFETY & HEALTH ADMINISTRATION, Duluth, MN

*Docket No. 99-1373; Submitted on the Record;
Issued February 15, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether the Office of Workers' Compensation Programs properly denied appellant's request for authorization of left knee surgery.

The Board finds that the Office properly denied appellant's request for authorization of left knee surgery.

Section 8103(a) of the Federal Employees' Compensation Act states in pertinent part: "The United States shall furnish to an employee who is injured while in the performance of duty, the services, appliances, and supplies prescribed or recommended by a qualified physician, which the Secretary of Labor considers likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of the monthly compensation."¹ In order to be entitled to reimbursement of medical expenses, appellant has the burden of establishing that the expenditures were incurred for treatment of the effects of an employment-related injury or condition.² Proof of causal relationship in a case such as this must include supporting rationalized medical evidence.³

On February 1, 1978 appellant, then a 42-year-old mine inspector, sustained an injury to his right knee during a work-related basketball game. The Office accepted that appellant sustained degenerative joint disease of his right knee secondary to a torn medial meniscus. Appellant underwent several right knee surgeries, including a right knee replacement procedure, which were authorized by the Office.⁴ In February 1997, the Office accepted that appellant

¹ 5 U.S.C. § 8103.

² *Bertha L. Arnold*, 38 ECAB 282, 284 (1986).

³ *Zane H. Cassell*, 32 ECAB 1537, 1540-41 (1981); *John E. Benton*, 15 ECAB 48, 49 (1963).

⁴ In November 1994, appellant received a schedule award for a 50 percent permanent impairment of his right knee.

sustained a left knee sprain as a consequence of his employment-related right knee injury.⁵ Appellant requested authorization for left knee surgery⁶ and, by decision dated February 26, 1999, the Office denied appellant's request on the grounds that the medical evidence did not show that the surgery was necessitated by an employment-related condition.

In support of his claim, appellant submitted a January 29, 1998 report in which Dr. Scott H. Warren, an attending Board-certified surgeon, noted that x-ray testing showed that appellant had an area of chipped osteophyte or methyl methacrylate in the medial side of his left knee which might be in the region of his pain. Dr. Warren stated, "One could consider surgical excision, though I would only give him a 50-50 chance of having significant relief afterwards." In a report dated January 27, 1999, Dr. Warren indicated that appellant continued to report pain in both knees. The results of magnetic resonance imaging testing obtained in February 1999 revealed an osteochondral lesion of appellant's left femoral condyle, but no evidence of meniscal or ligamentous injury.

The documents submitted by appellant, however, are of limited probative value on the relevant issue of the present case in that they do not contain an opinion on causal relationship.⁷ These documents do not contain any clear opinion that appellant required left knee surgeries due to an employment-related condition. The evidence contains an equivocal opinion regarding the need for surgery and does not otherwise show that appellant's accepted left knee condition, a left knee sprain, required surgery. Moreover, the record contains evidence which shows that the surgery for which appellant requested authorization was not necessitated by an employment-related condition. In a report dated February 16, 1999, an Office medical adviser determined that the requested surgery was not required by an employment-related condition. The Office medical adviser noted that appellant's left knee condition was only accepted for a soft tissue injury and that his left knee problems were related to the nonwork-related degenerative joint disease of his left knee.

For these reasons, the Office properly denied appellant's request for authorization of left knee surgery.

⁵ Appellant worked for private employers after leaving the employing establishment and received compensation for various periods of disability.

⁶ Appellant requested authorization for "debridement and removal of dessicans [sic]."

⁷ See *Charles H. Tomaszewski*, 39 ECAB 461, 467-68 (1988) (finding that medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

The decision of the Office of Workers' Compensation Programs dated February 26, 1999 is affirmed.

Dated, Washington, DC
February 15, 2001

Michael J. Walsh
Chairman

David S. Gerson
Member

Willie T.C. Thomas
Member