

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of EDDIE WHITE and DEPARTMENT OF LABOR,
MINE SAFETY & HEALTH ADMINISTRATION, Mt. Hope, WV

*Docket No. 02-2205; Submitted on the Record;
Issued December 18, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof in establishing that he sustained a recurrence of disability causally related to his February 1, 1994 employment injury.

In this case, the Office of Workers' Compensation Programs approved appellant's February 1, 1994 claim for a left knee condition. He apparently returned to work in March 1994 and retired in December 1994. Appellant states that he was forced to retire due to restrictions placed on his knee.

Appellant filed a notice of recurrence of disability on June 7, 2002 alleging that he had continuous pain due to his employment injury. In a June 28, 2002 letter, the Office requested additional evidence and, by decision dated August 9, 2002, denied his claim finding that he failed to submit the necessary medical opinion evidence to establish a causal relationship between his current condition and his 1994 employment injury.

The Board finds that appellant has failed to establish that he sustained a recurrence of disability causally related to his February 1, 1994 employment injury.

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 and after June 7, 2002 and his February 1, 1994 employment injury.¹ 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.²

¹ *Dominic M. DeScala*, 37 ECAB 369, 372 (1986); *Bobby Melton*, 33 ECAB 1305, 1308-09 (1982).

² *See Nicolea Brusio*, 33 ECAB 1138, 1140 (1982).

In support of his claim for recurrence, appellant submitted treatment notes dated March 1, 1994 through May 24, 2002 from his treating physician, Dr. William Goodridge Sale, III, a Board-certified orthopedic surgeon. In his treatment note of May 24, 2002, Dr. Sale set forth his findings on examination and on x-ray. He diagnosed early degenerative arthrosis of medial compartment, left knee, post arthroscopy. Treatment consisted of aspiration of the knee and instructions in some terminal extension, quad set exercises. Appellant was advised that he was not ready for a total knee replacement. Dr. Sale further stated that appellant had some reasonably decent functional cartilage remaining. Appellant was instructed to continue his present physical activity program and to come back as needed.

Dr. Sale's May 24, 2002 report is insufficient to meet appellant's burden of proof. He did not provide any opinion that appellant's current condition of early degenerative arthrosis of medial compartment was caused or related to his accepted work-related torn medial meniscus. Furthermore, Dr. Sale did not explain how or why a torn medial meniscus with arthroscopy in 1994 would result in a continuing condition eight years later. Due to the lack of rationalized medical opinion evidence, appellant has failed to meet his burden of proof in establishing a recurrence of disability and the Office properly denied his claim.

The August 9, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
December 18, 2002

Michael J. Walsh
Chairman

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member