

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of SHELLY S. PRESLEY and DEPARTMENT OF THE ARMY,  
ANNISTON ARMY DEPOT, Anniston, AL

*Docket No. 01-1636; Submitted on the Record;  
Issued March 11, 2002*

---

DECISION and ORDER

Before MICHAEL J. WALSH, ALEC J. KOROMILAS,  
A. PETER KANJORSKI

The issue is whether appellant established that she sustained a recurrence of disability, due to the September 15, 1992 employment injury, commencing June 7, 1999.

The Office of Workers' Compensation Programs accepted appellant's claim for a right knee strain. By decision dated April 22, 1994, the Office denied appellant's claim for a schedule award for her right knee. On January 25, 2001, however, the Office stated that a schedule award was issued to appellant for an impairment to her right knee on April 26, 1994. (That decision is not in the record perhaps due to the fact that the record was reconstructed.)

On June 7, 1999 appellant, then a 33-year-old tool-and-parts attendant, alleged that she sustained a recurrence of disability on June 7, 1999 due to the September 15, 1992 employment injury. Appellant stated that the surgery she underwent, *i.e.*, arthroscopic chondroplasty of the right knee on December 7, 1992, put limitations on what she could do at home and at work and she could not use her knee as she could "before." In a supplemental statement, appellant stated that, after the surgery, her knee never felt the way it had before she injured it. Appellant stated that her knee flared up "quite often" and "get real sore." She stated that she did not think there was a certain date of recurrence but her knee just hurt "a lot" since it had been injured and she could not climb or bend. Appellant stated that she did not have a knee injury prior to the September 15, 1992 employment injury and she had not done anything out of her normal duties of "walking and being a mother at home" to further injure her knee.

By decision dated January 8, 2001, the Office denied appellant's claim, stating that the evidence of record failed to establish a recurrence as alleged.

By letter dated May 2, 2001, appellant requested reconsideration of the Office's decision and submitted medical evidence consisting of reports from her treating physician, Dr. Stephen P. Cowley, a Board-certified orthopedic surgeon, dated May 8 and 10, July 21 and January 5, 2001. In his January 5, 2001 report, Dr. Cowley explained that he was submitting records of appellant's treatment and that he believed appellant might continue to have problems with her right knee

which might “get progressively worse over time.” He stated that he felt appellant’s return in May 2000 was “consistent with this” and did not indicate a new injury.

In his May 8, 2000 report, Dr. Cowley stated that he treated appellant for her workers’ compensation injury in December 1992 at which time she had a lesion on the medial femoral condyle and plica that was excised at the same time. He noted that he had previously rated appellant’s right knee five percent permanently impaired. He stated that appellant had “some aching discomfort” since the surgery, that she felt occasional clicking and appellant had discomfort sitting in a bending position for long periods of time such as riding in a car. On physical examination he found a little fullness about the knee, full range of motion and no focal area of tenderness. The x-rays were normal. He diagnosed sequelae from an articular cartilage lesion to the medial femoral condyle. Dr. Cowley stated that appellant would continue to have problems “with this and may over time get progressively worse.”

In his May 10, 2000 report, Dr. Cowley stated that, as a result of appellant’s knee injury, she “was probably going to have some ongoing chronic problems, which may eventually progress.” He believed appellant should require routine follow-up on a yearly basis in order to assess her problem. In his July 21, 2000 report, Dr. Cowley reiterated that he awarded appellant a five percent impairment to her right knee as a result of the articular cartilage injury.

By decision dated May 14, 2001, the Office denied appellant’s request for reconsideration.

The Board finds that appellant did not establish that she sustained a recurrence of disability, commencing June 7, 1999 due to the September 15, 1992 employment injury.

Appellant has the burden of establishing by reliable, probative and substantial evidence that the recurrence of a disabling condition for which he seeks compensation was causally related to his employment injury.<sup>1</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>2</sup>

In this case, none of the medical reports from Dr. Cowley dated from May 8, 2000 through January 5, 2001 provide a rationalized medical opinion explaining how appellant’s current knee condition is related to the accepted condition of right knee strain. In the May 8, 2000 report, Dr. Cowley stated that appellant had sequelae from an articular cartilage lesion to the medial femoral condyle and stated that the condition might progressively worsen. He, however, did not specifically explain how appellant’s condition related to the September 15, 1992 employment injury. The Board has held that a medical opinion not fortified by medical rationale is of little probative value.<sup>3</sup> Dr. Cowley’s reports are therefore not probative in

---

<sup>1</sup> *Dominic M. DeScala*, 37 ECAB 369 (1986).

<sup>2</sup> *Louise G. Malloy*, 45 ECAB 613, 617 (1994).

<sup>3</sup> *Annie L. Billingsley*, 50 ECAB 210, 213 (1998); *Bernard Snowden*, 49 ECAB 144, 148 (1997).

establishing that appellant sustained a recurrence of disability on June 7, 1999 due to the September 15, 1992 employment injury.

The May 14 and January 8, 2001 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, DC  
March 11, 2002

Michael J. Walsh  
Chairman

Alec J. Koromilas  
Member

A. Peter Kanjorski  
Alternate Member