

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of HOMER P. BOUNDS and DEPARTMENT OF THE ARMY,
CORPS OF ENGINEERS, Huntington, WV

*Docket No. 02-178; Submitted on the Record;
Issued May 22, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant established that he sustained a recurrence of disability on or about October 19, 1999, causally related to his January 23, 1995 employment injury.

On January 23, 1995 appellant, then a 50-year-old maintenance mechanic, sustained a left knee injury while in the performance of duty. Appellant returned to light duty the day after his injury and he resumed his regular duties approximately one month later. The Office of Workers' Compensation Programs accepted appellant's claim for left knee sprain.

On October 23, 1999 appellant filed a notice of recurrence of disability (Form CA-2a), alleging that he experienced a recurrence of disability on September 28, 1999 causally related to his previously accepted employment injury of January 23, 1995. He first sought medical treatment for his claimed recurrence on October 19, 1999. Appellant explained that he never fully recovered from his injury and he continued to experience swelling and pain. He further stated that he could not run, jump or stand for long periods of time and his patella dislocated several times causing him to fall.

The Office denied the claim on April 18, 2000 based on appellant's failure to establish a causal relationship between his claimed recurrence of disability and his prior employment injury.

On April 24, 2000 appellant requested an oral hearing, which was held on November 14, 2000. In a decision dated February 1, 2001 and finalized February 5, 2001, the Office hearing representative affirmed the Office's April 18, 2000 decision. The hearing representative noted, among other things, that there was evidence suggesting a preexisting degenerative condition and the current medical evidence relating appellant's condition to his prior employment injury did not provide sufficient rationale to satisfy appellant's burden of proof.

Where appellant claims a recurrence of disability due to an accepted employment-related injury, he has the burden of establishing by the weight of reliable, probative and substantial

evidence that the recurrence of disability is causally related to the original injury.¹ This burden includes the necessity of furnishing evidence from a qualified physician who concludes, on the basis of a complete and accurate factual and medical history, that the condition is causally related to the employment injury.² The medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated or aggravated by the accepted injury.³ While a physician's opinion supporting causal relationship need not be one of absolute medical certainty, the opinion must not be speculative or equivocal. The opinion should be expressed in terms of a reasonable degree of medical certainty.⁴ Moreover, the physician must support his conclusion with sound medical reasoning.⁵

The Board has given careful consideration to the issue involved, the contentions of the parties on appeal and the entire case record. The Board finds that the decision of the hearing representative of the Office dated February 1, 2001 and finalized February 5, 2001, is in accordance with the facts and the law in this case and hereby adopts the findings and conclusions of the Office hearing representative.

On June 5, 2001 appellant filed a request for reconsideration accompanied by additional medical evidence. In a decision dated September 10, 2001, the Office denied modification of the prior decision dated February 1, 2001 and finalized February 5, 2001.

Much of the evidence that accompanied appellant's request for reconsideration was previously of record. Evidence not previously considered included treatment notes dated February 20, 2001 and a May 28, 2001 letter from appellant's treating physician, Dr. Andrew E. Landis, a Board-certified orthopedic surgeon, whose February 20, 2001 treatment notes state in relevant part: "the patient has been treated by me since October 1999 for left knee problem secondary to old injury which occurred in January 1995." He further noted "[h]e was diagnosed with contusion/sprain with degenerative changes." In his May 28, 2001 letter to appellant, Dr. Landis stated that his clinic notes "very clearly state [his] opinion regarding ... injury to [appellant's] left knee and the ongoing problems ... which are totally related to the initial injury of January 23, 1995." He further added that the January 23, 1995 employment injury "hastened the progression of [appellant's] preexisting arthritic condition" and that appellant's "ongoing symptoms ... are 90 percent related to the injury."

Dr. Landis provided an opinion that there is a causal relationship between appellant's current condition and his January 23, 1995 employment injury. However, the physician offered little explanation of how appellant's left knee sprain hastened his underlying arthritic condition. Furthermore, it is not apparent from the recent submissions of how Dr. Landis was able to

¹ 20 C.F.R. § 10.104(b) (1999); *Helen K. Holt*, 50 ECAB 279, 283 (1999); *Carmen Gould*, 50 ECAB 504 (1999); *Robert H. St. Onge*, 43 ECAB 1169 (1992).

² See *Helen K. Holt*, *supra* note 1.

³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.2 (June 1995).

⁴ *Norman E. Underwood*, 43 ECAB 719 (1992).

⁵ See *Robert H. St. Onge*, *supra* note 1.

apportion 90 percent of appellant's ongoing symptoms to the January 23, 1995 employment injury. Appellant was approximately 57 years old when Dr. Landis authored his most recent opinion in May 2001. Given appellant's age and his preexisting arthritic condition, it is incumbent upon Dr. Landis to clearly explain the basis of his opinion that appellant's January 23, 1995 soft tissue injury his underlying arthritic condition would not have progressed to its current state.⁶ For this reason, the Board finds that appellant has failed to establish that he sustained a recurrence of disability on or about October 19, 1999.

The decisions of the Office of Workers' Compensation Programs dated September 10 and February 1, 2001 and finalized February 5, 2001 are hereby affirmed.

Dated, Washington, DC
May 22, 2002

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

⁶ *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (a medical opinion not fortified by medical rationale is of little probative value).