U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GREGORY WADE and DEPARTMENT OF DEFENSE, DEFENSE FINANCE & ACCOUNTING SERVICE, Cleveland, OH

Docket No. 02-2005; Submitted on the Record;
Issued March 7, 2003

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON, MICHAEL E. GROOM

The issue is whether appellant sustained a recurrence of disability on August 24, 2001 causally related to his January 12, 1996 accepted work injury.

On January 12, 1996 appellant, then a 42-year-old claims examiner, filed a traumatic injury claim alleging that on that date he fell at work and injured his left knee. The Office of Workers' Compensation Programs accepted the claim for a left knee torn meniscus, with left knee arthroscopy performed on March 21, 1996; aggravation of osteoarthritis of the left knee with arthroscopic debridement performed on August 26, 1996, consequential injury right ankle sprain, left ankle gouty arthropathy, left knee total knee replacement, left knee arthropathy with manipulation performed on January 28, 1999; and left knee adhesive capsulitis/tendinitis with total knee arthroplasty revision performed on March 10, 2000.

On August 24, 2001 appellant filed a claim for recurrence of disability noting that he stopped working that day due to a recurrence of his January 12, 1996 injury.[1] He stated that the only problem he had after returning to work was burning in the left foot and bone spurs in the right ankle. Appellant alleged that he had "shooting pain going up and down my left knee and leg to my feet."

In a March 6, 2001 report, Dr. Viktor E. Krebs, an orthopedic surgeon, indicated that appellant returned to discuss diagnostic studies. He indicated that appellant was doing quite well and encouraged appellant to "continue working the knee."

[1] The Office has paid appellant for numerous periods for recurrences of disability, including from April 28 through May 21, 1996, from July 23 through September 30, 1996, from April 29 through May 5, 1998, from May 6 through May 19, 1998 and again beginning July 1, 1998. Pursuant to the decision of a hearing representative dated March 16, 2000, appellant also proved a recurrence of total disability commencing July 14, 1999. Furthermore, on April 9, 1997, the Office issued a schedule award for 25 percent permanent impairment of the left lower extremity. This award ran from March 3, 1997 to July 19, 1998.

In an April 26, 2001 report, Dr. Brian Donley, an orthopedic surgeon, indicated that appellant had been referred by Dr. Sabogal. He diagnosed "painful ossicle, medial malleolus."

By letter dated May 3, 2001, the Office authorized a computerized tomography scan of the right ankle.

In a June 27, 2001 report, Dr. Stephen Bernie, a general practitioner, indicated that appellant had a 78 percent permanent impairment of his left lower extremity.

The record contains progress reports by Dr. Anthony Matalavage, a podiatrist, addressing treatment of appellant commencing on January 10, 2001. In an October 3, 2001 medical report, Dr. Matalavage stated:

> "[Appellant] has been under my care for some time and he had a work slip extended from August 27, 2001 through October 31, 2002. [He] has been given an out of work slip because of continued pain and inflammation in his feet with the diagnosis of peripheral neuropathy, paresthesias, plantar fascitis, pes planovalgus deformity. [Appellant] has been nonresponsive to all previous conservative therapies and currently is undergoing aggressive physical therapy with custom made foot orthotic devices. At today's visit on October 3, [2001] [he] is experiencing lateral column pain with pain along his fifth metatarsal and at this point x-rays were taken which showed increased cortical thickening with possible early stress fracture. [Appellant] was placed in a nonweight bearing short-leg cast with crutches for a period of two weeks. Will follow-up on October 17[, 2001] for cast removal and rex-ray and reevaluation at this point. Due to [his] chronic condition, [appellant] will need to be compensated for his time lost at work from August 27[, 2001] through October 31[, 2002] and at this point may need additional treatment with new complaint. His new complaint is related because of compensation for his current foot condition."

In a letter to the Office dated October 19, 2001, appellant indicated that he was supposed to return to work in March 2001, but that he returned to his job in December 2000, when he was still in pain. He indicated that he worked until he "could not tolerate the pain any longer, which was August 27, 2001."

By letter dated October 24, 2001, the Office advised appellant that it had not accepted responsibility for any foot conditions although it had accepted responsibility for bilateral ankle conditions in addition to a left total knee replacement. The Office advised appellant to submit additional factual and medical information.

In a medical report dated October 25, 2001, Dr. Matalavage stated:

> "[Appellant] is unable to work due to continued pain and inflammation [in] his feet which is related to the total left knee replacement and his right ankle stress fracture with bone spurs. [His] current diagnosis of peripheral neuropathy, paresthesias, plantar fascitis, pes planovalugus deformity are related to his original injury. [Appellant] is undergoing aggressive physical therapy with a custom made foot orthotic. [He] is experiencing lateral column pain with pain

along his fifth metatarsal. X-rays were taken which show increased cortical thickening with possible early stress fracture. [Appellant] has been complaining about his left foot since the first total knee surgery on November 17, 1998. He was referred to me from Dr. Krebs due to swelling and inflammation in the left foot. I have treated [appellant] since January 1 [through] 10[,] 2001. [Appellant] is unable to work a sedentary job at this point in time due to continuing pain and swelling in the left foot, therefore, we are suggesting that [appellant] have no weight bearing on his left foot to eliminate any further complications."

By decision dated November 8, 2001, the Office denied appellant's recurrence of disability claim beginning August 24, 2001, including compensation for the period of disability from August 27 through October 31, 2001. The Office found that there was no rationalized medical opinion explaining the relationship of the disabling condition to the accepted conditions.

By letter dated November 10, 2001, appellant requested an oral hearing and submitted further progress notes from Dr. Matalavage. Appellant also submitted the results of a series of x-rays conducted from August 22 through November 12, 2001, indicating no acute fractures or dislocations in appellant's left foot. Nerve conduction studies were taken of appellant on February 26, 2002 and were interpreted by Dr. Manoj Malhotra, a neurologist, as normal, with no electromyography evidence of polyneuropathy or bilateral lumbosacral radiculopathies.

On April 9, 2002 Dr. Krebs instructed appellant with regard to a daily exercise program. He stated that appellant's components were functioning well and at the highest level expected. Dr. Krebs recommended that appellant be followed yearly with x-rays.

A hearing was held on April 24, 2002. Appellant described how he was injured on January 12, 1996, noted that prior to that date he had no problems in his left knee other than a little arthritis and indicated that he was diabetic and started having tingling in his feet after his surgery in 1997. He stated that he stopped working on August 24, 2001 because of pain in his feet and remained out of work until December 2001, when he returned to work.

In a report dated April 16, 2002, Dr. Malhotra stated that appellant most likely had reflex sympathetic dystrophy causing his left foot pain. He noted that this disorder occurred in about one to two percent of patients after undergoing arthroscopic knee surgeries.

In an April 15, 2002 letter, Dr. Matalavage indicated that appellant continued to suffer foot pain since his prior knee replacement surgery, that he has been nonresponsive to all conservative therapy, and was diagnosed with reflex sympathetic dystrophy from a neurology consultation. He concluded that appellant's postoperative knee replacement has a low grade reflex sympathetic dystrophy causing the foot pain since the initial surgery.

By decision dated June 18, 2002, the Office affirmed the November 8, 2001 decision.

The Board finds that appellant has not met his burden of proof to establish that he sustained a recurrence of disability causally related to his accepted employment injury.

An employee who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial reliable and

probative evidence that the disability for which he claims compensation is causally related to the accepted injury.[2] This burden of proof requires that a claimant furnish medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the condition is causally related to the employment injury and supports that conclusion with sound medical reasoning.[3]

The Board finds that the evidence does not establish that appellant sustained a recurrence of his accepted injury of January 12, 1996 on August 24, 2001, as none of the medical evidence contains a detailed, rationalized explanation clearly linking the alleged recurrence to the January 12, 1996 injury. Appellant's treating podiatrist, Dr. Matalavage, does not provide sufficient medical rationale to support his contention that appellant's current condition is causally related to his accepted injury. He noted that appellant's current diagnosis of peripheral neuropathy, paresthesias, plantar fascitis and pes planovalgus deformity are related to his original injury, but Dr. Matalavage does not indicate the date of the accepted injury to address how the 1996 injury contributed to disability commencing in 2001. The Office has not accepted the diagnoses provided by Dr. Matalavage. Although Dr. Matalavage links appellant's condition to his total left knee replacement, he fails to adequately explain the causal relationship. Dr. Malhotra indicated that appellant "most likely" had reflex sympathetic dystrophy as the cause of his left foot pain and noted that this disorder occurred in about one to two percent of patients after undergoing arthroscopic knee surgeries. This opinion is not persuasive in that it does not clearly address how appellant's reflex sympathetic dystrophy is causally related to the accepted conditions. The fact that one to two percent of patients who have arthroscopic knee surgeries may develop this condition does not constitute persuasive medical reasoning.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.[4] Causal relationships must be established by rationalized medical opinion evidence. Appellant failed to submit such evidence and the Office, therefore, properly denied appellant's claim for a recurrence.

[2] *Jose Hernandez*, 47 ECAB 288, 293, 294 (1996).

[3] *Helen K. Holt*, 50 ECAB 279, 283 (1999).

[4] *Victor J. Woodhams*, 41 ECAB 345 (1989).

The decisions of the Office of Workers' Compensation Programs dated June 18, 2002 and November 8, 2001 are hereby affirmed.

Dated, Washington, DC
March 7, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member