

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**PARKER C. SPARLIN, Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Fort Worth, TX, Employer**

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**Docket No. 04-822  
Issued: July 9, 2004**

*Appearances:*  
*Parker C. Sparlin, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

COLLEEN DUFFY KIKO, Member  
WILLIE T.C. THOMAS, Alternate Member  
A. PETER KANJORSKI, Alternate Member

**JURISDICTION**

On February 9, 2004 appellant filed a timely appeal from an Office of Workers' Compensation Programs' merit decision dated March 10, 2003.<sup>1</sup> Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of appellant's claim under 20 C.F.R. §§ 501.2(c) and 501.3.

**ISSUE**

The issue is whether appellant established that he sustained a recurrence of his medical condition on August 20, 2002 due to the January 3, 1994 employment injury.

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<sup>1</sup> Appellant stated that he was appealing the Office's decision dated January 29, 2004 but the record does not contain a decision issued on that date. The record does contain an informational letter dated January 28, 2004 pertaining to a prior decision of March 10, 2003.

## **FACTUAL HISTORY**

The Office accepted appellant's claim for a medial meniscus tear of the left knee and arthroscopy of the left knee arising from a January 3, 1994 employment injury. On December 1, 1994 the Office issued appellant a schedule award of a nine percent permanent loss of use of the left leg. On September 25, 1999 appellant accepted a limited-duty job offer.

Appellant filed a CA-2a only for medical benefits, alleging that he sustained a recurrence of his medical condition on August 20, 2002 due to the January 3, 1994 employment injury. Appellant stated that he was a truck driver but after the January 3, 1994 employment injury, he was unable to drive. Appellant retired from the employing establishment on July 3, 2001. The most recent medical evidence in the record is from appellant's treating physician, Dr. Angelo L. Otero, a Board-certified orthopedic surgeon, dated April 30, 2001. In that report, Dr. Otero stated that appellant had not worked since January 19, 2001, that his left knee was "pretty much" swollen and appellant had osteoarthritis. He stated that on examination appellant had a Grade 2 effusion and walked favoring the left leg. Dr. Otero recommended giving appellant Hyalgan injections.

In a letter dated January 2, 2003, the Office informed appellant that he should submit additional evidence including a narrative report from his treating physician explaining how his condition worsened and a statement from him or coworkers or both explaining how, if he was working light duty prior to being completely disabled, the light-duty assignment changed.

Appellant did not submit any additional evidence.

By decision dated March 10, 2003, the Office denied the claim, stating that the evidence of record failed to establish that the claimed recurrence was causally related to the approved injury.

## **LEGAL PRECEDENT**

A claimant seeking compensation under the Federal Employees' Compensation Act<sup>2</sup> has the burden of establishing the essential element of his claim by the weight of the reliable probative and substantial evidence.<sup>3</sup> In this case, appellant has the burden of establishing that he sustained a recurrence of a medical condition<sup>4</sup> on August 20, 2002 causally related to the January 3, 1994 employment injury. To establish the requisite causal connection, appellant is responsible for submitting an attending physician's report which contains a description of the

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<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Joan R. Donovan*, 54 ECAB \_\_\_\_\_ (Docket No. 03-297, issued June 13, 2003); *Nathaniel Milton*, 37 ECAB 712, 722 (1986).

<sup>4</sup> Recurrence of medical condition means a documented need for further medical treatment after release from treatment for the accepted condition or injury when there is no accompanying work stoppage. Continuous treatment for the original condition or injury is not considered a "need for further medical treatment after release from treatment," nor is an examination without treatment. 20 C.F.R. § 10.5(y) (1999). In this case, appellant's treatment for the accepted medial meniscus tear was not continuous but appeared to stop on April 30, 2001. See *Joan R. Donovan*, *supra* note 3, n.7 (2003).

objective findings and supports causal relationship between appellant's current and the accepted condition.<sup>5</sup>

The evidence generally required to establish causal relationship is rationalized medical opinion evidence. The medical opinion must be based on a complete factual and medical background with an accurate history of the claimant's employment injury and must explain from a medical perspective how the current condition is related to the injury.<sup>6</sup>

### ANALYSIS

In this case, appellant did not submit any medical or factual evidence to support a causal relationship between his condition as of August 20, 2002 and the employment injury. The most recent medical evidence in the record was the April 30, 2001 report of his treating physician, Dr. Otero, which stated that appellant had osteoarthritis and should undergo Hyalgan injections but that report is not relevant to whether appellant sustained a recurrence of his medical condition on August 20, 2002. The report does not address a causal relationship between appellant's medical condition on August 20, 2002 and the accepted condition of medial meniscus tear. Although in a January 2, 2003 letter, the Office informed appellant of the evidence that it was necessary for him to submit to establish his claim, appellant did not submit additional evidence. He therefore failed to establish his claim for a recurrence of his medical condition.

### CONCLUSION

The Board finds that appellant failed to establish that he sustained a recurrence of his medical condition on August 20, 2002 due to the January 3, 1994 employment injury. Appellant did not submit the requisite medical evidence to establish his claim.<sup>7</sup>

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<sup>5</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrence of Medical Condition*, Chapter 2.1500.5.b (May 1993).

<sup>6</sup> *John A. Ceresoli, Sr.*, 40 ECAB 305, 311 (1988).

<sup>7</sup> Appellant submitted additional evidence after the Office's March 10, 2003 decision but the Board's review is limited to evidence that was before the Office at the time it issued its final decision. *See Robert D. Clark*, 48 ECAB 422, 428 n.6 (1997). If appellant wishes to submit additional evidence, he may request the Office for reconsideration. *See* 20 C.F.R. §§ 600, 605 and 607.

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 10, 2003 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 9, 2004  
Washington, DC

Colleen Duffy Kiko  
Member

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member