

periods of total and partial disability. Appellant returned to part-time duty on May 19, 1997 and to full duty on October 17, 1997.¹ Dr. Hampton J. Jackson, Jr., appellant's treating physician, a Board-certified orthopedic surgeon, continued to submit progress notes indicating that appellant had continued symptoms, primarily of the back, and that she was restricted to light-duty work. The record indicates that appellant informed the Office that she continued at her regular job, with the stipulation that she could leave her desk at any time because of pain. Appellant received a disability retirement from the Office of Personnel Management (OPM) on July 2, 2002.

In a report dated March 5, 2003, Dr. Jackson advised that appellant had significant symptoms in her back and left knee. He noted pain on patellar compression, synovial thickening and continuing evidence of patellofemoral pain. Dr. Jackson stated:

“At this stage, it is obvious that she has developed traumatic arthritis as a result of her injury to her left knee sustained on March 17, 1997, and likewise her lower back has progressed and worsened during that period of time. She still requires a cane. She cannot do prolonged standing and walking.... She is not fit for any gainful employment presently.”

Dr. Jackson submitted an April 15, 2003 disability slip indicating appellant was “totally incapacitated” from April 15 to May 13, 2003, and a May 20, 2003 disability slip indicating she was “totally incapacitated” from May 20 to June 17, 2003. In a May 20, 2003 report, Dr. Jackson stated that his examination showed continuing evidence of worsening arthritis in the left knee as a result of the traumatic chondromalacia sustained on March 17, 1997. He noted significant tenderness and spasm in the lower back and a continuing evidence of lumbar disc injury at the L4-5 and L5-S1 levels. Dr. Jackson concluded that appellant was a good candidate for surgery.

On June 1, 2003 appellant filed a Form CA-2a claim for benefits, alleging that she sustained a recurrence of disability which was causally related to her accepted conditions.

In a report dated June 17, 2003, Dr. Jackson noted a worsening of appellant's symptoms, especially in her left knee, which showed restriction of motion on examination. With regard to appellant's lower back, Dr. Jackson noted persistent restriction of motion, tenderness and spasm. He advised that appellant was not fit to return to work, as she was unable to stand, walk, sit, push, pull or lift enough for any gainful employment.

By decision dated September 29, 2003, the Office denied appellant compensation for a recurrence of disability. The Office found that appellant failed to submit medical evidence sufficient to establish that the disability as of June 1, 2003 was caused or aggravated by the accepted conditions.

On October 4, 2003 appellant requested a review of the written record.

¹ Appellant filed a claim for recurrence of disability on May 1, 1998 which the Office denied by decision dated May 3, 1999.

In a report dated November 25, 2003, Dr. Jackson noted that appellant had significant back pain with radiation going to the hips, legs and feet, and that her symptoms worsen whenever she attempted to do any light standing or walking. He further stated:

“However, the neurologic examination shows that the reflexes are unchanged since her last examination. Her sensory status is unchanged since the last examination and strength status is unchanged. Therefore, there is no progressive neurologic deficit. Therefore, we will continue to treat her without surgery. Her treatment involves total rest and medication and no work.”

By decision dated April 6, 2004, an Office hearing representative affirmed the September 29, 2003 Office decision.

LEGAL PRECEDENT

An individual who claims a recurrence of disability resulting from an accepted employment injury has the burden of establishing that the disability is related to the accepted injury. This burden requires 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 the employment injury, and who supports that conclusion with sound medical reasoning.²

ANALYSIS

In the instant case, appellant has failed to submit any medical opinion containing a rationalized, probative report which relates her disability for work as of June 1, 2003 to her accepted left shoulder, left arm, left hip, left knee, thoracic and lower back conditions. For this reason, she has not discharged her burden of proof to establish her claim that she sustained a recurrence of disability as a result of her accepted employment conditions.

In support of her recurrence claim, appellant submitted several reports from Dr. Jackson, who stated that she had significant symptoms in her left knee and back, including traumatic arthritis of the left knee resulting from her March 17, 1997 employment injury to her left knee. Dr. Jackson also related appellant’s complaints of lower back pain which had progressively worsened since the March 1997 work injury. He concluded that appellant was unable to do prolonged standing and walking and was unfit for any form of gainful employment.

Dr. Jackson’s reports do not constitute sufficient medical evidence demonstrating a causal connection between appellant’s employment-related conditions and her alleged recurrence of disability on June 1, 2003. Causal relationship must be established by rationalized medical opinion evidence. The weight of medical opinion is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of physician’s knowledge of the facts of the case, the medical history provided the care of analysis manifested and the medical rationale expressed in support of stated conclusions.³ Dr. Jackson reported in 2003 that appellant

² *Dennis E. Twardzik*, 34 ECAB 536 (1983); *Max Grossman*, 8 ECAB 508 (1956); 20 C.F.R. § 10.121(a).

³ *See Anna C. Leanza*, 48 ECAB 115 (1996).

had developed traumatic arthritis which was obviously the result of her 1997 injury and that her back condition had worsened. He, however, offered no objective findings to support his opinion and he offered no medical rationale to explain why appellant's condition in 2003, some six years after the injury was causally related to the 1997 injury. In fact, in the only report in which Dr. Jackson discussed objective findings, in his November 25, 2003 report, he noted that appellant had significant back pain with radiation going to the hips and legs and feet and that her symptoms worsened whenever she attempted to do any light standing or walking. He further stated that appellant's neurologic examination showed that her sensory and strength status was unchanged since the last examination. Dr. Jackson offered no neurological explanation for any of appellant's symptoms, the worsening of her condition, or the causal relationship between her current condition and the 1997 injury. His reports are not sufficient to meet appellant's burden to submit probative, rationalized medical evidence to establish that she sustained a recurrence of disability as of June 1, 2003.

In his May 20, 2003 report, Dr. Jackson noted continuing evidence of worsening arthritis in the left knee as a result of the traumatic chondromalacia appellant sustained on March 17, 1997, in addition to significant tenderness and spasm in the lower back and continuing evidence of lumbar disc injury at the L4-5 and L5-S1 levels. He essentially reiterated these findings in a June 17, 2003 report. While Dr. Jackson thus concluded that appellant's left knee condition in 1993 was due to a worsening of traumatic chondromalacia, the Board notes that the Office has never accepted that appellant sustained chondromalacia as a result of the 1997 injury. He offered no medical rationale to causally relate appellant's diagnosed chondromalacia to her accepted injury, or to explain how the 1997 injury would have caused the development of this condition. Dr. Jackson's report assumes an incorrect history of injury, that appellant sustained chondromalacia as a result of the 1997 injury, given these deficiencies his report is of limited probative value.

As there is no medical evidence addressing and explaining why the claimed conditions and disability as of June 1, 2003 was caused or aggravated by her accepted left shoulder, left arm, left hip, left knee and lower back conditions, appellant has not met her burden of proof in establishing that she sustained a recurrence of disability. The Board therefore affirms the Office hearing representative's April 6, 2004 decision, affirming the Office's September 29, 2003 decision denying benefits for a recurrence of disability as of June 1, 2003.

CONCLUSION

The Board finds that appellant has not met her burden to establish that she was entitled to compensation for a recurrence of disability as of June 1, 2003 causally related to her accepted left shoulder, left arm, left hip, left knee and lower back conditions.

ORDER

IT IS HEREBY ORDERED THAT the April 6, 2004 and September 29, 2003 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: September 28, 2004
Washington, DC

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member