



establishment's premises. He stopped work on May 8, 1992. By letter dated June 9, 1992, the Office accepted his claim for left knee strain.

On February 28, 2006 appellant filed a claim (Form CA-2a) alleging that he sustained a recurrence of total disability on May 10, 1992.<sup>1</sup> He stated that he experienced weakness and pain in his left knee followed by arthritis even after undergoing physical therapy. Appellant further stated that the failure to diagnose and reattach a posterior ligament caused his condition.

Appellant submitted a May 13, 1992 x-ray report of Dr. Peter Huzyk, a Board-certified radiologist who found that he sustained hyperflexion of the left knee during a fall from a bike on May 7, 1992. Treatment notes covering the period August 18 through November 24, 1992 were submitted from appellant's physical therapists. Reports dated July 29 and August 11 and 18, 1992 from Dr. J. Michael Watt, a Board-certified orthopedic surgeon, indicated that appellant sustained a posterior cruciate tear of the left knee. Undated treatment notes and a May 8, 1992 treatment note of Dr. L. Patton, a Board-certified family practitioner, diagnosed a sprained left knee and hamstring. He provided a history that appellant fell off his bike at work in early May 1992. A May 8, 1992 treatment note of a physician whose signature is illegible diagnosed a strained left knee and possible internal derangement.

By letters dated March 22 and May 16, 2006, the Office advised appellant about the factual and medical evidence he needed to establish his recurrence of total disability claim. Appellant submitted a notification of personnel action (Form SF-50) which indicated that he resigned from the employing establishment effective January 16, 1999 to travel.<sup>2</sup>

In a decision issued June 19, 2006, the Office found that appellant did not sustain a recurrence of total disability on May 10, 1992 causally related to the accepted May 7, 1992 employment-related injury. It found that he failed to submit sufficient medical evidence to establish his claim.

### **LEGAL PRECEDENT**

A recurrence of disability means an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which had resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.<sup>3</sup>

A person who claims a recurrence of disability 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 employment injury.<sup>4</sup> Appellant has the burden

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<sup>1</sup> On appellant's CA-2a form, the employing establishment indicated that appellant resigned on January 16, 1999.

<sup>2</sup> In a June 27, 2006 letter, appellant stated that he stopped working at the employing establishment in January 1998 and that he was currently self-employed as a stock market trader.

<sup>3</sup> 20 C.F.R. § 10.5(x).

<sup>4</sup> *Kenneth R. Love*, 50 ECAB 193, 199 (1998).

of establishing by the weight of the substantial, reliable and probative evidence a causal relationship between his recurrence of disability and his employment injury.<sup>5</sup> This burden includes the necessity of furnishing evidence from a qualified 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.<sup>6</sup> Moreover, the physician's conclusion must be supported by sound medical reasoning.<sup>7</sup>

The medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated or aggravated by the accepted injury.<sup>8</sup> In this regard, medical evidence of bridging symptoms between the recurrence and the accepted injury must support the physician's conclusion of a causal relationship.<sup>9</sup> While the opinion of a physician 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.<sup>10</sup>

### ANALYSIS

The Office accepted that appellant sustained a left knee strain while in the performance of duty on May 7, 1992. On February 28, 2006 he sought compensation for his ongoing left knee problems. The Board finds that appellant has failed to submit rationalized medical evidence establishing that the claimed recurrent left knee condition is causally related to his accepted employment-related left knee strain.

The treatment notes of appellant's physical therapists do not constitute probative medical evidence inasmuch as a physical therapist is not considered a "physician" under the Federal Employees' Compensation Act.<sup>11</sup>

The unsigned x-ray report and treatment notes which contain the typed names of Dr. Huzyk and Dr. Watt and a physician's illegible signature have no probative value as the author(s) cannot be identified as a physician.<sup>12</sup> As the x-ray report and treatment notes lack

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<sup>5</sup> *Carmen Gould*, 50 ECAB 504 (1999); *Lourdes Davila*, 45 ECAB 139 (1993).

<sup>6</sup> *Ricky S. Storms*, 52 ECAB 349 (2001); *see also* 20 C.F.R. § 10.104(a)-(b).

<sup>7</sup> *Alfredo Rodriquez*, 47 ECAB 437 (1996); *Louise G. Malloy*, 45 ECAB 613 (1994).

<sup>8</sup> *See Ricky S. Storms*, *supra* note 6; *see also* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.2 (June 1995).

<sup>9</sup> For the importance of bridging information in establishing a claim for a recurrence of disability, *see Richard McBride*, 37 ECAB 748 at 753 (1986).

<sup>10</sup> *See Ricky S. Storms*, *supra* note 6; *Morris Scanlon*, 11 ECAB 384, 385 (1960).

<sup>11</sup> 5 U.S.C. §§ 8101-8193; 8101(2); *Vickey C. Randall*, 51 ECAB 357, 360 (2000) (a physical therapist is not a physician under the Act).

<sup>12</sup> *Ricky S. Storms*, *supra* note 6.

proper identification, the Board finds that they do not constitute probative medical evidence sufficient to establish appellant's burden of proof.<sup>13</sup>

Dr. Patton's treatment notes which found that appellant sustained a sprained left knee and hamstring predate the alleged recurrence of total disability, are undated or do not discuss whether his current knee problems are causally related to the May 7, 1992 employment-related injury.

Appellant has not submitted any rationalized medical evidence establishing that he sustained a recurrence of disability on May 10, 1992 causally related to his accepted employment-related injury. The Board finds that he has not met his burden of proof.

### **CONCLUSION**

The Board finds that appellant did not sustain a recurrence of total disability on May 10, 1992 causally related to his May 7, 1992 employment injury.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the June 19, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 13, 2006  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>13</sup> *Vickey C. Randall, supra* note 11; *Merton J. Sills*, 39 ECAB 572 (1988) (Reports not signed by a physician lack probative value).