



On August 31, 2006 appellant filed a claim for a recurrence of disability that began on February 1, 2006. She alleged that her condition had been ongoing since 1981 and that her present condition was related to her June 20, 1981 injury because she fell twice within one week on June 20 and 26, 2006. Appellant noted that the claim was for medical treatment only. The employing establishment stated that she was separated from the employing establishment at the time of the alleged recurrence.

In a September 8, 2006 report, Dr. Allen D. Boyd, Board-certified in orthopedic surgery, diagnosed severe degenerative joint disease of both knees and stated that he believed appellant's condition was caused by an employment injury as the "left knee favoring articular femur fracture." He also opined that appellant would require total knee replacement before returning to regular employment.

In a September 20, 2006 letter, appellant described her falls on June 20 and 26, 2006 which contributed to her 1981 injury.

In an October 4, 2006 letter, the Office requested additional evidence from appellant to support her recurrence claim. Appellant responded on October 12, 2006, addressing her work history and noting that she was terminated in August 1981, reinstated on October 2, 1982 and resigned on December 3, 1989. In response to the Office's question about other injuries which affected the same part of the body, appellant stated that she tripped and fell on her right knee in a fall during 1996. She stated that her pain has been ongoing for many years and that she was doing her normal duties when she suffered a recurrence.

The Office received medical documentation, including a July 13, 1982 orthopedic consultation from Dr. James Burke, treatment notes from Dr. Burke dated July 13, 1982 through November 5, 1987, visit notes from Dr. John Devanny, Board-certified in orthopedic surgery, dated July 8, 1992 through September 17, 1996 and evaluation notes from Dr. Boyd dated February 1 and August 14, 2006. On June 27, 1986 Dr. Burke noted that appellant "wishes to keep the details of the automobile accident separate from the left knee problems." On February 1, 2006 Dr. Boyd stated that appellant told him she has had pain in both knees for many years.

By December 15, 2006 decision, the Office denied appellant's claim on the grounds that the evidence of record did not support that her claimed recurrence was related to the accepted 1981 injury.

### **LEGAL PRECEDENT**

In this case, appellant has the burden of establishing that she sustained a recurrence of a medical condition<sup>1</sup> on February 1, 2006 causally related to her July 8, 1981 employment injury. This burden includes the necessity of furnishing medical evidence from a physician who, on the

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<sup>1</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) (2002).

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 rationale.<sup>2</sup> Where no such rationale is present, the medical evidence is of diminished probative value.<sup>3</sup>

Office regulations provide that 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 resulting from a previous injury or illness without a new or intervening injury.<sup>4</sup> In order to establish that her claimed recurrence of the condition was caused by the accepted injury, medical evidence of bridging symptoms between her present condition and the accepted injury must support the physician's conclusion of a causal relationship.<sup>5</sup>

### ANALYSIS

The Office accepted that appellant sustained an inflammatory left knee effusion and fracture distal left condyle on June 21, 1981 as a result of her federal employment. Appellant was reinstated and returned to work on October 2, 1982. She resigned from her position on December 3, 1989. At the time of the alleged recurrence of disability appellant was not working for the employing establishment or any other federal agency. Her statements to the Office noted that she fell on June 20 and 26, 2006.

The medical evidence submitted in support of appellant's February 1, 2006 recurrence claim includes treatment records from Dr. Burke and Dr. Devanny. Dr. Burke's notes cover the time period July 13, 1982 through November 5, 1987. Dr. Devanny's notes are for the time period July 28, 1992 through September 17, 1996. The records of both physicians address appellant's condition for time periods prior to the claimed recurrence in February 2006. This evidence is not probative evidence as to appellant's condition in February 2006 and as it is more than 10 years old and not germane to appellant's condition in 2006.

Dr. Boyd's recent treatment fails to include a complete medical and factual history. On September 8, 2006 he merely noted that appellant had degenerative joint disease of both knees. Although Dr. Boyd stated that appellant would need total knee replacement, he did not address how her injury in 1981 caused or contributed to any recurrence of her medical condition in 2006. His notes do not address whether appellant's current condition is causally related to the original employment injury and, therefore, are of diminished probative value. While Dr. Boyd's notes are evidence that appellant experienced knee pain in 2006 there is no opinion as to how her current condition is related to the 1981 injury. There is no rationalized medical opinion about the causal relation between the original accepted injury and the claimed recurrence.

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<sup>2</sup> *Ronald A. Eldridge*, 53 ECAB 218 (2001).

<sup>3</sup> *Albert C. Brown*, 52 ECAB 152 (2000).

<sup>4</sup> 20 C.F.R. § 10.5(x).

<sup>5</sup> *See Ricky S. Storms*, 52 ECAB 349 (2001).

A recurrence of disability is caused by a spontaneous change in a medical condition from a previous injury without a new or intervening injury. Appellant filed for recurrence 25 years after her initial claim and after she sustained additional falls and traumatic incidents. In her letter, appellant alleged that her knee pain has been present for many years. There is no medical opinion of record relating appellant's medical condition in 2006 to the accepted injury or which explains how her 2006 condition is related to the accepted injury, rather than her subsequent nonwork-related injuries. There are at least two such incidents contained in the record. On October 12, 2006 appellant mentioned that she fell in the fall of 1996. Additionally in Dr. Burke's treatment note on June 27, 1986 states that appellant "wishes to keep the details of the automobile accident separate from the left knee problems." Appellant has not established a spontaneous change in her accepted condition.

The Board finds that there is insufficient medical evidence to demonstrate how appellant's current condition is causally related to her previous 1981 knee injury of inflammatory left knee effusion and fracture distal left condyle.

### **CONCLUSION**

Appellant has not met her burden to establish that the claimed recurrence of disability is causally related to the original injury.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the December 15, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 18, 2007  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

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

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