



left knee and leg, a tear of the left lateral meniscus, left corns/calluses and authorized arthroscopic surgery on the left knee which was performed on January 23, 1990.

Appellant came under the treatment of Dr. Samir N. Azer, a Board-certified orthopedic surgeon, who noted in reports dated October 20 to November 17, 1989, that appellant sustained a left knee injury at work on May 10, 1989 and diagnosed possible torn lateral meniscus. Dr. Azer noted that, although a magnetic resonance imaging (MRI) scan of the left knee dated October 26, 1989 revealed no abnormalities he believed appellant sustained a meniscus tear. In an operative report dated January 23, 1990, he performed arthroscopy of the left knee, removed loose chondral fracture, shaved crater and diagnosed loose chondral body of the left knee with greater defect of the left medial femoral condyle weight bearing surface. On September 21, 1990 Dr. Azer determined that appellant reached maximum medical improvement.<sup>1</sup> Appellant also submitted reports from Dr. A. Janati, a Board-certified neurologist, dated February 15 to August 11, 2000, who treated appellant for various conditions including a viral skin lesion and lumbosacral radiculopathy secondary to a viral illness. Dr. Janati noted that an electromyogram (EMG) dated April 18, 2000 revealed mild L5 radiculopathy on the left and opined that the origin of the radiculopathy was from herpes zoster. He noted that appellant continued to experience pain and discomfort in the left hip radiating to the left knee and opined that this condition was permanent with relapses of herpetic skin eruptions and periodic exacerbations of his left lower extremity pain.

On April 15, 2005 appellant filed a CA-2a, claim for recurrence of disability, alleging that he experienced pain and weakness in his left knee commencing October 30, 2004 which was causally related to the accepted injury of May 10, 1989.<sup>2</sup> He was not working at the time of the claimed recurrence of disability.

Appellant submitted reports from Dr. Azer dated October 20, 1989 to September 10, 1991, who noted a history of appellant's left knee injury and subsequent surgery in 1990. He also submitted a November 11, 2004 prescription note from Dr. Ferdinand M. Amante, Jr., a Board-certified orthopedist, who stated that appellant presented with bilateral knee pain. Dr. Amante noted that appellant's history was significant for arthroscopic surgery on the left knee in 1990. On April 4, 2005 he treated appellant for recurrent left knee pain which started after he injured his knee at work on May 10, 1989. Dr. Amante advised that appellant's left knee condition persisted and he experienced recurrent left knee discomfort, a failure to regain full strength of the left leg, an inability to run, squat, engage in high impact sports and difficulty in prolonged standing. He noted findings upon physical examination of slight atrophy of the left thigh and leg musculature, tender bony prominence of the patella and crepitation in knee motion. Dr. Amante diagnosed left knee recurrent pain due to osteoarthritis, status post arthroscopy for loose bodies due to medial condyle chondral fracture, osteophyte of the left patella, mild atrophy of the left lower extremity musculature and impaired prolonged standing, climbing and squatting.

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<sup>1</sup> In a decision dated October 15, 1990, the Office granted appellant a 24 percent permanent impairment of the left lower extremity.

<sup>2</sup> Appellant indicated on the CA-2a that his original injury occurred on May 10, 1989; however, the CA-1 appellant filed on May 10, 1989 reveals that the original injury occurred on May 9, 1989.

Also submitted was an x-ray of the left knee dated December 7, 2004 which revealed no fracture or dislocation, but osteophytes along the margin of the anterior tibia.

By letter dated September 23, 2005, the Office advised appellant of the type of factual and medical evidence needed to establish his claim for recurrence of disability and requested that he submit such evidence, particularly requesting that appellant submit a physician's reasoned opinion addressing the relationship of his claimed recurrent condition and specific employment factors.

Appellant submitted a statement dated October 24, 2005 and indicated that he was granted disability retirement on March 11, 1992. He advised that he initially injured his left knee while playing football when he was 15 years old. Also submitted were decisions of other administrative agencies, an application for disability retirement, a light-duty job offer of June 12, 1991 and a benefits statement.

In a decision dated August 16, 2006, the Office denied appellant's claim for recurrence of disability on the grounds that the evidence submitted was insufficient to establish that appellant sustained a recurrence of disability commencing October 30, 2004 causally related to his work injury of May 9, 1989.

### **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 resulted from a previous injury or illness without an intervening injury or a new exposure to the work environment.<sup>3</sup> Where appellant claims a recurrence of disability due to an accepted employment-related injury, he or she has the burden of establishing by the weight of reliable, probative and substantial evidence that the recurrence of disability is causally related to the original injury.<sup>4</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>5</sup> Moreover, the physician's conclusion must be supported by sound medical reasoning.<sup>6</sup>

The medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated or aggravated by the accepted injury.<sup>7</sup> In this regard, medical evidence

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<sup>3</sup> 20 C.F.R. § 10.5(x) (2006).

<sup>4</sup> *Robert H. St. Onge*, 43 ECAB 1169 (1992).

<sup>5</sup> Section 10.104(a)-(b) of the Code of Federal Regulations provides that, when an employee has received medical care as a result of the recurrence, he or she should arrange for the attending physician to submit a detailed medical report. The physician's report should include the physician's opinion with medical reasons regarding the causal relationship between the employee's condition and the original injury, any work limitations or restrictions, and the prognosis. 20 C.F.R. § 10.104.

<sup>6</sup> See *Robert H. St. Onge*, *supra* note 4.

<sup>7</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.2 (June 1995).

of bridging symptoms between the recurrence and the accepted injury must support the physician's conclusion of a causal relationship.<sup>8</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>9</sup>

### ANALYSIS

The Office accepted that appellant sustained a sprain/strain of the left knee and leg, a tear of the left lateral meniscus, left corns/calluses and authorized arthroscopic surgery on the left knee on January 23, 1990. However, the medical record lacks a well-reasoned narrative from appellant's physicians relating appellant's claimed recurrent condition, beginning October 30, 2004 to his accepted employment injury.

Appellant submitted reports from Dr. Azer dated October 20, 1989 to September 10, 1991, who noted his initial treatment and subsequent surgery for the work-related May 10, 1989 injury. However, these reports are of no value in establishing the claimed recurrence since they predate the time of the claimed recurrent condition of October 30, 2004.

Appellant also submitted prescription notes from Dr. Amante, dated November 11 and December 15, 2004, who treated him for bilateral knee pain and advised that his history was significant for arthroscopic surgery on the left knee in 1990. However, the Board notes that none of the medical records submitted most contemporaneous with the alleged recurrence of disability specifically mention that appellant sustained a recurrence of disability on October 30, 2004 causally related to the accepted employment injury of May 9, 1989 or otherwise provide medical reasoning explaining why any current condition or disability was due to the May 9, 1989 employment injury. The Board has found that vague and unrationalized medical opinions on causal relationship have little probative value.<sup>10</sup> Therefore, these notes are insufficient to meet appellant's burden of proof.

Likewise, Dr. Amante's report dated April 4, 2005 noted treating appellant for recurrent left knee pain which started after appellant injured his knee at work on May 10, 1989. He advised that appellant's left knee problems persisted and included recurrent left knee discomfort and failure to regain full strength of the left leg. Dr. Amante diagnosed left knee recurrent pain due to osteoarthritis, status post arthroscopy for loose bodies due to medial condyle chondral fracture, osteophyte of the left patella, mild atrophy of the left lower extremity musculature and impaired prolonged standing, climbing and squatting. However, as noted above, Dr. Amante failed to specifically address whether appellant sustained a recurrence of disability on October 30, 2004 causally related to the accepted employment injury of May 9, 1989 or otherwise provide medical reasoning explaining why any current condition or disability was due

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<sup>8</sup> For the importance of bridging information in establishing a claim for a recurrence of disability, see *Robert H. St. Onge*, *supra* note 4; *Shirloyn J. Holmes*, 39 ECAB 938 (1988); *Richard McBride*, 37 ECAB 748 (1986).

<sup>9</sup> See *Ricky S. Storms*, 52 ECAB 349 (2001); *Morris Scanlon*, 11 ECAB 384, 385 (1960).

<sup>10</sup> *Jimmie H. Duckett*, 52 ECAB 332 (2001); *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

to the May 9, 1989 employment injury. Additionally, the Board notes that Dr. Amante did not explain how or why the osteoarthritis, medial condyle chondral fracture and osteophyte of the left patella were related to the accepted employment injury. The Office never accepted that appellant developed osteoarthritis, medial condyle chondral fracture and osteophyte of the left patella as a result of his May 9, 1989 work injury and there is no reasoned medical evidence to support such a conclusion.<sup>11</sup> The Board has found that vague and unrationalized medical opinions on causal relationship have little probative value.<sup>12</sup> Therefore, this report is insufficient to meet appellant's burden of proof. Other medical evidence submitted by appellant does not specifically address causal relationship between his accepted condition and his claimed recurrence of disability.

Therefore, appellant has not met his burden of proof in establishing a recurrence of disability.

On appeal, appellant also asserts that his current condition is a consequence of his original work injury. While a subsequent injury is compensable if it is the direct and natural result of a compensable primary injury, a claimant who asserts that a nonemployment-related injury was a consequence of a previous employment-related injury has the burden of proof to establish that such was the fact.<sup>13</sup> However, as noted above with respect to the claimed recurrence of disability, the medical evidence is insufficient to show that appellant sustained any subsequent injury as a consequence of his previous employment-related injury.

### CONCLUSION

The Board finds that appellant has not met his burden of proof in establishing that he sustained a recurrence of disability or a medical condition beginning October 30, 2004 causally related to his accepted employment-related injury on May 9, 1989.

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<sup>11</sup> Where an employee claims that a condition not accepted or approved by the Office was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury. *Jaja K. Asaramo*, 55 ECAB 200 (2004).

<sup>12</sup> See *Jimmie H. Duckett*, *supra* note 10.

<sup>13</sup> *Margarette B. Rogler*, 43 ECAB 1034 (1992).

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 16, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 7, 2007  
Washington, DC

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

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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