



benefits. Appellant recovered without disability or further medical treatment for this condition by December 9, 2004.

Appellant filed a recurrence of disability on November 9, 2006 alleging that on September 1, 2006 he experienced an increase in pain in his left knee. He did not stop work. In a letter dated November 15, 2006, the Office requested additional factual and medical information. Appellant did not respond. By decision dated December 19, 2006, the Office denied his recurrence of disability claim.

Dr. Bin Yang, a Board-certified orthopedic surgeon, completed a report on February 23, 2007 and noted his history of injury. He noted that appellant underwent left knee surgery on August 6, 2003 which revealed severe chondromalacia of the patellafemoral joint with degenerative meniscal tears. Dr. Yang noted that appellant continued to experience knee pain and underwent several diagnostic studies, including x-rays and magnetic resonance imaging (MRI) scans. He recommended further surgery.

In a statement dated March 6, 2007, appellant stated that he began to experience increasing pain in his left knee and sought medical treatment. He stated that he had no knee problems prior to May 12, 2003.

Appellant requested reconsideration on March 6, 2007.

By decision dated June 1, 2007, the Office noted that appellant's claim was not for a recurrence of disability, but instead for a recurrence of medical care of his left knee condition. The Office vacated the December 19, 2006 decision in part and denied appellant's claim finding that he failed to submit sufficient factual and medical evidence to establish his claim.

Appellant requested reconsideration on June 8, 2007 and submitted extensive medical records. He underwent left knee surgery on August 13, 2003. Appellant also underwent right knee surgery on December 14, 2005. In a note dated August 15, 2006, Dr. Metta Y. Joshi, a Board-certified anesthesiologist, diagnosed bilateral knee pain. Dr. Bernardo Stein, a Board-certified orthopedic surgeon, examined appellant on September 25, 2006 and diagnosed severe degenerative disease of the shoulders and knees. He stated that appellant experienced bilateral shoulder and knee pain due to arthritis. Appellant received synvisc injections in his knee on November 14, 21 and 28, 2006. Dr. Vipul V. Shah, a physician Board-certified in preventative medicine and rehabilitation, examined appellant on November 21, 2006 and noted that he reported giving way of his knee and that his knee pain was exacerbated by work. He reported that appellant was required to be on his feet all day repairing computers. Dr. Shah reviewed appellant's November 18, 2006 MRI scan and found that on the left appellant demonstrated a possible partial tear of the medial collateral ligament, complex tear of the medial meniscus, edema and effusion with synovitis. Appellant's right knee demonstrated complex tear of the medial meniscus, thinning of cartilage in the medial joint space, possible partial tear of the medial collateral ligament and knee effusion with synovitis. Dr. Shah found that appellant's bilateral knee x-rays demonstrated osteoarthritis. In a note dated December 4, 2006, Dr. James M. Lee, an orthopedic surgeon, found medial joint line tenderness and diagnosed left knee meniscal tear status post surgery. He stated that appellant required morphine for pain, but was too young for a knee replacement.

By decision dated July 11, 2007, the Office denied modification of the June 1, 2007 decision. It found that the medical evidence submitted was not sufficient to establish that appellant had sustained a recurrence of his accepted left knee condition.

### **LEGAL PRECEDENT**

A 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.<sup>1</sup>

Where an employee claims a recurrence of a medical condition 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 is causally related to the original injury. The burden includes the necessity of furnishing evidence from a qualified physician who, on the basis of a complete and accurate factual and medical history, concluded that the condition is causally related to the employment injury. Moreover, sound medical reasoning must support the physician’s conclusion.<sup>2</sup>

The medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated or aggravated by the accepted injury. 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. 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>3</sup>

### **ANALYSIS**

Appellant sustained an employment-related left knee injury, underwent surgery and recovered without disability or further medical treatment for this condition by December 9, 2004. He alleged that he sustained a recurrence of his left knee condition on September 1, 2006. Appellant has the burden of proof in establishing a recurrence of this condition.

Appellant submitted treatment notes regarding his left knee condition on and after September 1, 2006. Dr. Stein, a Board-certified orthopedic surgeon, diagnosed severe degenerative disease of the knees on September 25, 2006. He attributed appellant’s knee condition to arthritis. Dr. Stein did not offer an opinion that related appellant’s left knee condition on or after September 1, 2006 to his accepted employment injury. As this report did not provide an opinion regarding the causal relationship between appellant’s condition and his

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<sup>1</sup> 20 C.F.R. § 10.6(y).

<sup>2</sup> *Ricky S. Storms*, 52 ECAB 349 351-52 (2001).

<sup>3</sup> *Id.*

accepted employment injury, it is not sufficient to meet appellant's burden of proof in establishing a recurrence of his June 5, 2003 employment injury.

In a November 21, 2006 report, Dr. Shah, a physician Board-certified in physical medicine and rehabilitation, noted that appellant reported that his knee gave way and that appellant believed that his knee pain was exacerbated by work. The Board has stated that, when a physician's statements regarding a claimant's condition consist only of a repetition of the claimant's complaints that he or she hurts, without objective signs, the physician has not presented a basis for acceptance of a claim.<sup>4</sup> Dr. Shah did not provide any objective signs or symptoms that appellant's work was causing or aggravating his knee condition. His report is not sufficient to establish appellant's claim for recurrence of a medical condition.

Dr. Lee, an orthopedic surgeon, examined appellant on December 4, 2006 and diagnosed a left meniscal tear and surgery. He did not offer any opinion regarding the relationship between appellant's current knee condition and possible need for knee replacement and his accepted employment injury. Without a medical opinion establishing that appellant's current knee condition was due to his accepted employment injury, this report is not sufficient to meet his burden of proof and the Office properly denied his claim.

### **CONCLUSION**

The Board finds that appellant has not submitted the necessary medical opinion evidence to establish a causal relationship between his current left knee condition on or after September 1, 2006 and his accepted employment injury of June 5, 2003. Therefore appellant has not met his burden of proof to establish a recurrence of a medical condition.

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<sup>4</sup> *Fereidoon Kharabi*, 52 ECAB 291 (2001).

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 11 and June 1, 2007 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: January 18, 2008  
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