

sprain and right shoulder sprain. He returned to work and in 1991 his employment was terminated for cause. On December 29, 1992 the Office authorized right knee surgery, which was performed on February 5, 1993.

On February 15, 2008 appellant filed two CA-2a's (notice of recurrence of disability) commencing in September 2003. On one form, he identified the date of injury as May 9, 1990, stating that his back still hurt constantly. The other CA-2a provided a date of injury of August 27, 1990 and appellant reported that his right knee continued to lock, ache constantly and occasionally hyperextend.

In a March 24, 2008 letter, appellant reported that on September 17, 2003 his knee hyperextended and he fell. He also sustained a slip and fall injury in private employment in 1991, resulting in cervical and right shoulder injuries. Appellant stated that he had cervical surgeries in 1991, 1995 and 2000. He also reported a rotator cuff surgery in 2001.

Appellant submitted a March 13, 2008 report from Dr. Mark Schlauderaff, a Board-certified internist, who diagnosed multiple cervical disc herniations, diabetes and hypertension. Dr. Schlauderaff stated that appellant was being seen to discuss work-related injuries. Appellant also submitted a March 19, 2008 lumbar spine x-ray report, showing mild anterior wedging of T12 and L1, with multilevel disc degenerative changes. A March 19, 2008 magnetic resonance imaging scan of the right knee showed chronic anterior cruciate ligament tear and mild osteoarthritis.

By decisions dated April 7, 2008, the Office denied the claims for compensation. The Office found that the medical evidence was insufficient to establish the 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 has resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.”¹

A person who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability for which she claims compensation is causally related to the accepted injury. This burden of proof requires that a claimant furnish 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 supports that conclusion with sound medical reasoning.²

Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on the issue of whether there is a causal relationship between a diagnosed

¹ 20 C.F.R. § 10.5(x).

² *Robert H. St. Onge*, 43 ECAB 1169 (1992); *Dennis J. Lasanen*, 43 ECAB 549 (1992).

condition and the identified employment factor. The opinion of the physician must be based on a complete factual and medical background, must be of reasonable medical certainty and supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of the analysis manifested and the medical rationale expressed in support of the physician's opinion.³

ANALYSIS

The record indicates that appellant stopped working in federal employment in 1991 when his employment was terminated for cause. Appellant is now claiming compensation on or after September 2003. While appellant states that he has had continuous pain from his employment injuries and it is not a recurrence, it is his burden of proof to establish his claim for compensation. To be entitled to medical benefits, appellant must submit medical evidence establishing an employment-related condition on or after September 2003. As to compensation for wage loss, the medical evidence must establish employment-related disability for any period claimed.

The medical evidence submitted is of diminished probative value to the issues presented. Dr. Schlauderaff did not provide a complete factual and medical history or provide a rationalized medical opinion on the causal relationship between a diagnosed condition or disability and the employment injuries. He did not address how the conditions he diagnosed were related to either injury accepted in this case. There is no medical evidence of record establishing a condition or disability as of September 2003 causally related to the May 9 or August 27, 1990 employment injuries. Appellant did not submit probative medical evidence sufficient to meet his burden of proof.

CONCLUSION

The Board finds appellant did not establish an employment-related condition or disability commencing in September 2003 causally related to his May 9 or August 27, 1990 employment injuries.

³ *Jennifer Atkerson*, 55 ECAB 317, 319 (2004).

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated April 7, 2008 are affirmed.

Issued: July 22, 2009
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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