United States Department of Labor
Employees' Compensation Appeals Board

S.S., Appellant	)	
and	)	**Docket No. 10-146**
	)	**Issued: July 26, 2010**
U.S. POSTAL SERVICE, POST OFFICE, Maple Grove, MN, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On October 20, 2009 appellant filed an appeal from an August 19, 2009 decision of the Office of Workers' Compensation Programs. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant established that she sustained a recurrence of a medical condition causally related to her September 7, 2005 employment injury.

FACTUAL HISTORY

On August 3, 2005 appellant, then a 38-year-old rural carrier, sustained a contusion of the left chest wall and a laceration of the right knee when her postal vehicle was struck in an intersection. She returned to modified duty on August 13, 2005, and a third-party claim was filed. On September 27, 2005 Dr. Chienyenwa Nwachuku-Winful, Board-certified in family medicine, advised that appellant could return to full duty without restrictions. On October 10, 2005 Dr. Nwachuku-Winful noted that appellant had difficulty with deep knee bends and denied

that her knee buckled. Examination findings included a small hematoma on the left chest secondary to the contusion, no knee effusion or limitation of range of motion and intact collateral ligaments. Dr. Nwachuku-Winful advised that appellant's condition was improving.

On June 27, 2008 appellant filed a recurrence claim for medical treatment commencing October 9, 2007. She continued to have occasional pain and buckling in her right knee. The employing establishment noted that the most recent medical evidence was dated October 10, 2005. By letter dated July 16, 2008, the Office advised appellant of the evidence needed to support her claim and she was given 30 days to respond.

In a decision dated August 18, 2008, the Office denied appellant's claim that she sustained a recurrence of a medical condition, noting that she had not responded to the July 16, 2008 letter.

On June 11, 2009 appellant requested reconsideration. As she was walking on October 9, 2007, her right knee buckled. Appellant also slipped on ice and fell in a crosswalk, skinning her knee, and her right knee continued to bother her. She submitted duplicates of evidence previously of record and a March 14, 2006 magnetic resonance imaging (MRI) scan of the lumbar spine interpreted as normal.

In a treatment note dated March 12, 2007, Dr. James A. Lee, Board-certified in family and occupational medicine and an associate of Dr. Nwachuku-Winful, advised that appellant fell that morning injuring her hands, wrists, knee and foot. Examination of the right knee showed an abrasion with slight tenderness, full range of motion and no effusion. Dr. Lee diagnosed a right knee contusion and abrasion. In a January 10, 2008 report, Dr. Nwachuku-Winful noted that appellant complained of several months of weakness, grabbing objects and buckling of her right knee with night pain and pain climbing stairs. Examination of the right knee showed no gross abnormality with no effusion or limitation of motion and some tenderness. McMurray's and Lachman's tests were negative. Dr. Nwachuku-Winful diagnosed chronic right knee pain. On June 30, 2008 she reported that appellant had persistent right knee pain. Dr. Nwachuku-Winful noted that she first saw appellant a week after the August 2005 employment injury and that she had multiple injuries to that knee. Examination findings included no limitation of movement with joint line tenderness bilaterally and some discomfort with palpation of the retropatellar area bilaterally. McMurray's and Lachman's tests were negative. A July 2, 2008 MRI scan of the right knee demonstrated no evidence for meniscal tear or other significant abnormality with minor medial trochlear chondromalacia.

In an August 19, 2009 decision, the Office denied appellant's claim that she sustained a recurrence of a medical condition finding that the evidence submitted was insufficient to establish causal relationship.

LEGAL PRECEDENT

Section 10.5(y) of the Office's implementing federal regulations provide that 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.[1]

To establish that a claimed recurrence of the condition was caused by the accepted injury, medical evidence of bridging symptoms between the present condition and the accepted injury must support the physician's conclusion of a causal relationship.[2] Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.[3] Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized medical opinion of whether there is a causal relationship between the claimant's diagnosed condition and the compensable employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.[4]

ANALYSIS

The Board finds that appellant did not establish a recurrence of her accepted medical condition. The Office accepted that appellant sustained a contusion of the left chest wall and a laceration of the right knee caused by an August 3, 2005 motor vehicle accident. Appellant returned to full duty on September 27, 2005. On June 27, 2008 she noted that she sought medical treatment as of October 9, 2007 for her knee condition. The medical evidence submitted in support of appellant's claim for recurrence of medical condition consists of a July 2, 2008 right knee MRI scan that demonstrated a minor medial trochlear chondromalacia with no other abnormality. In a March 12, 2007 treatment note, Dr. Lee noted that appellant had fallen that morning and diagnosed right knee contusion. He did not however address the August 3, 2005 employment injury or relate her fall or need for treatment in 2007 to her prior injury. Dr. Lee's report is therefore of limited probative value. In reports dated January 10 and June 30, 2008, Dr. Nwachuku-Winful noted that appellant complained of right knee pain and buckling, found tenderness on examination of the right knee, no effusion or limitation of motion, and negative Lachman's and McMurray's tests. While she listed the August 3, 2005 employment injury, noting that she began treating appellant shortly thereafter, she too did not address appellant's knee condition in 2008 or discuss the relationship of her current knee condition to the accepted employment injury. The medical evidence of record is not sufficient not establish appellant's claim.

To be considered rationalized medical evidence, a physician's opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the claimant's

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[1] *Id*. at § 10.5(y); *Mary A. Ceglia*, 55 ECAB 626 (2004).

[2] *C.W.*, 60 ECAB ___ (Docket No. 07-1816, issued January 16, 2009).

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

[4] *I.J.*, 59 ECAB ___ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

specific employment factors.[5] None of the medical reports of record provide a clear explanation as to how appellant's current right knee condition or need for treatment in 2007 or 2008 was related to the August 3, 2005 work injury.

An award of benefits may not be based on surmise, conjecture, speculation or upon a claimant's own belief that there is causal relationship between his or her claimed condition and the employment.[6] As appellant has failed to submit any medical evidence containing a rationalized opinion establishing that she sustained a recurrence of medical condition on or after October 10, 2007, the Board finds that she has not met her burden of proof.[7]

CONCLUSION

The Board finds that appellant failed to establish that she sustained a recurrence of medical condition causally related to her August 3, 2005 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the August 19, 2009 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: July 26, 2010
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

[5] *S.D.*, 58 ECAB 713 (2007).

[6] *S.S.*, 59 ECAB ____ (Docket No. 07-579, issued January 14, 2008).

[7] *See J.F.*, 58 ECAB 124 (2006).