

On appeal, appellant noted that he is requesting authorization for a second right knee surgery.

FACTUAL HISTORY

On May 17, 2009 appellant, then a 41-year-old training technician, filed a traumatic injury claim (Form CA-1) alleging that he sustained a right knee meniscus tear on May 16, 2009 while in the performance of duty. He sought treatment in an emergency room that same day. In a May 18, 2009 progress note, Donna Villarimo, a nurse practitioner, reported that appellant was utilizing crutches and had a history of surgery in 2004 or 2005.

In a May 22, 2009 report, Dr. James Engelhart, a Board-certified radiologist, advised that a magnetic resonance imaging (MRI) scan of appellant's right knee revealed a bucket handle tear of the medical meniscus and degenerative joint disease.

On July 17, 2009 OWCP accepted appellant's claim for bucket handle tear of the medial meniscus of the right knee and authorized right knee surgery.

In an August 11, 2009 report, Dr. James W. Lamberton, a Board-certified orthopedic surgeon, reported that appellant was injured on May 16, 2009 and had a history of previous surgery to the right knee, possibly a partial medial meniscectomy. On August 18, 2009 he performed right knee arthroscopic surgery with partial medial meniscectomy and medial femorale condyle chondroplasty.

On February 23, 2010 OWCP received a telephone call from appellant who reported that his right knee gave out over the weekend and he stumbled and fell while walking with a friend. Appellant requested authorization to seek medical treatment from a local surgeon. He inquired as to whether he could receive wage-loss compensation if he stayed in the area for treatment. Appellant indicated that prior to the incident he had been working his full duties although his knee had been bothering him.

On February 23, 2010 OWCP requested additional factual and medical information from appellant. It allotted appellant 30 days to submit additional evidence and respond to its inquiries.

Appellant submitted two May 13, 2010 reports from Dr. Lamberton, who indicated that x-rays of appellant's right knee showed advanced post-traumatic degenerative joint disease of the medial compartment. Dr. Lamberton reported that appellant experienced knee pain, which increased on activity, but he did not return for follow-up visits after the August 18, 2009 surgery. He recommended a course of treatments, noting that appellant may be a future candidate for knee replacement.

By decision dated June 23, 2010, OWCP denied appellant's claim finding that the medical evidence submitted was insufficient to establish that he sustained a recurrence commencing February 22, 2010 causally related to the May 16, 2009 employment injury or August 18, 2009 surgery.

LEGAL PRECEDENT

Section 10.5(y) of OWCP'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.³ When a claim for a recurrence of medical condition is made more than 90 days after release from medical care, an employee is responsible for submitting an attending physician's report which contains a description of the objective findings and supports causal relationship between the employee's current condition and the accepted condition.⁴ In order to establish that a claimed recurrence of medical condition was caused by the accepted injury, medical evidence bridging the symptoms between the present condition and the accepted injury must support the physician's conclusion of a causal relationship.⁵

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.⁶ 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.⁷

ANALYSIS

OWCP accepted that on May 16, 2009 appellant sustained a bucket handle tear of the medial meniscus of the right knee and authorized right knee surgery. Appellant continued to work. On February 23, 2010 he submitted a recurrence claim for medical treatment alleging that he stumbled and fell on his right knee over the weekend while walking with a friend, resulting in the need for another knee surgery. The issue on appeal is whether appellant established a recurrence of a medical condition commencing February 22, 2010 causally related to the May 16, 2009 employment injury or the resulting August 18, 2009 right knee surgery. The Board finds that appellant did not submit sufficient medical evidence to establish his claim.

Appellant submitted two May 13, 2010 medical reports from Dr. Lamberton who diagnosed advanced post-traumatic degenerative joint disease of the right knee medial

³ 20 C.F.R. § 10.5(y); *see also* *Mary A. Ceglia*, 55 ECAB 626 (2004).

⁴ *See J.F.*, 58 ECAB 124 (2006); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.5(b) (March 2011).

⁵ *See Ronald A. Eldridge*, 53 ECAB 218 (2001); *C.W.*, Docket No. 07-1816 (issued January 16, 2009).

⁶ *See D.I.*, 59 ECAB 158 (2007); *C.F.*, Docket No. 10-2316 (issued July 15, 2011).

⁷ *See I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

compartment. Dr. Lamberton reported that appellant experienced knee pain with increase on activity, and that he had returned for follow-up visits after the surgery of August 18, 2009. He recommended a course of treatments and noted that appellant may be a future candidate for knee replacement. Dr. Lamberton did not provide any opinion addressing how appellant's trip or fall over the weekend prior to February 23, 2010 was due to his prior injury or surgery. Such an opinion is important as the record reveals a preexisting history of right knee problems dating back to 2004 or 2005. The Board has held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.⁸ Thus, these reports are insufficient to establish appellant's claim.

On appeal, appellant requested authorization for a second right knee surgery. The Board finds that appellant did not meet his burden of proof to establish that his need for medical treatment is related to his accepted injury. Appellant failed to submit medical evidence of bridging symptoms between his current condition in 2010 and the accepted employment injury.⁹ His last reported medical treatment before his alleged 2010 recurrence was August 18, 2009. Appellant did not submit a detailed medical report addressing the intervening time or need for medical treatment commencing on February 22, 2010 causally related to his accepted injury. Thus, the Board finds that appellant did not establish that medical treatment, in the form of surgery, was necessitated due to the effects of the employment injury.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish that he sustained a recurrence of a medical condition commencing February 22, 2010 causally related to the May 16, 2009 employment injury or August 18, 2009 right knee surgery.

⁸ See *K.W.*, 59 ECAB 271 (2007); *A.D.*, 58 ECAB 149 (2006); *Linda I. Sprague*, 48 ECAB 386 (1997).

⁹ See *Ronald A. Eldridge*, *supra* note 5.

ORDER

IT IS HEREBY ORDERED THAT the June 23, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 15, 2011
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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