



## **FACTUAL HISTORY**

On May 2, 2005 appellant, then a 48-year-old contract specialist, filed a claim for a traumatic injury, alleging that on April 11, 2005 she tripped on stairs entering the employing establishment's building and landed on her back. She alleged that she suffered from contusions, deep bruises, swelling and pain to her left elbow, arm and back, left thigh, right knee and entire body. On June 24, 2010 appellant filed a notice of recurrence of the April 11, 2005 employment injury commencing in February 2007. She stated that the recurrence/further damage/injury occurred at the time of the initial injury, but was not evident until February 2007 when her doctor had a magnetic resonance imaging (MRI) scan taken which diagnosed damage to her right knee.<sup>2</sup> On August 5, 2010 OWCP accepted appellant's claim for contusion of the right knee and lower leg and multiple contusions of trunk.

In an April 20, 2010 report, Dr. Hampton J. Jackson, Jr., a Board-certified orthopedic surgeon, noted that appellant has had a painful knee since she was injured on April 11, 2005. He diagnosed internal derangement of the right knee and left knee related to the employment injury of April 11, 2005. In a May 18, 2010 report, Dr. Jackson diagnosed appellant with torn menisci, left and right knee. In a May 25, 2010 report entitled "Orthopaedic Consultation Report for Conditions Caused by Work Accident of [April 11, 2005]," he noted that on May 24, 2010 she had a worsening of her knee injury initially sustained on April 11, 2005. Dr. Jackson indicated that appellant was presently incapacitated. In a disability certificate of the same date, he noted that she was totally incapacitated from May 25 to June 22, 2010. In a June 15, 2010 report, Dr. Jackson stated that appellant had a tear of the medial and lateral menisci aggravated or caused by the employment injury of April 11, 2005.

In a July 19, 2010 "Orthopaedic Consultation Report for Conditions Caused by Work Injury of April 11, 2005," Dr. Peter Trent, a Board-certified orthopedic surgeon, noted that appellant's MRI scan of both knees showed internal derangement in the form of meniscal tear with no evidence of anterior cruciate ligament or posterior cruciate ligament tear. He also noted a notation made by radiology of some degenerative change within the knee itself. Dr. Trent stated that at the present time the right knee was more symptomatic.

By decision dated September 8, 2010, OWCP denied appellant's claim for a recurrence.

On October 6, 2010 appellant requested an oral hearing before an OWCP hearing representative. At the hearing held on February 10, 2011, she testified that she worked on and off, but that on May 25, 2010 she stopped work. Appellant described how she fell in April 2005. She noted that both of her knees were damaged, but that the right knee was worse than the left. Appellant stated that she filed for recurrence in May 2010 because she needed surgery. She noted that she had subsequent injuries in 2007 when her knee gave out and she fell in the

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<sup>2</sup> The Board notes that appellant's notice of recurrence contains inconsistencies. Under date and hour of recurrence, appellant wrote in "February 2007" and then typed in on top of that "May 25, 2010." For date of first medical treatment following recurrence, she lists "February 2007." Appellant signed and dated the form for the first time on September 18, 2007. A second signature is dated June 24, 2010 and a note by that signature indicates that the form was signed on July 2, 2010. The employing establishment lists the date of recurrence as May 25, 2010.

hallway. Appellant also noted a subsequent fall in 2009 when her knee gave out. She stated that she did not have any new injuries in 2010, her knees just deteriorated.

By decision dated March 28, 2011, the hearing representative affirmed the September 8, 2010 decision of OWCP.

### **LEGAL PRECEDENT**

Section 10(x) of OWCP's regulations provide that 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. The term also means an inability to work that takes place when a light-duty assignment made specifically to accommodate an employee's physical limitations due to his or her work-related injury or illness is withdrawn (except when such withdrawal occurs for reasons of misconduct, nonperformance of job duties or a reduction-in-force) or when the physical requirements of such an assignment was altered so that they exceed his or her established physical limitations.<sup>3</sup>

When an employee, who is disabled from the job he or she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence establishes that the employee can perform the light-duty position, the employee has the burden to establish by the weight of the reliable, probative and substantive evidence a recurrence of total disability and to show that he or she cannot perform such light duty. As part of this burden, the employee must show a change in the nature and extent of the light-duty job requirements.<sup>4</sup>

Causal relationship is a medical issue and the medical evidence required to establish a causal relationship, generally, is rationalized medical evidence.<sup>5</sup> This consists of a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors.<sup>6</sup> The physician's opinion 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.<sup>7</sup>

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's claimed condition became apparent during a period of

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<sup>3</sup> 20 C.F.R. § 10.5(x); see *Theresa L. Andrews*, 55 ECAB 719 (2004).

<sup>4</sup> *Richard E. Konnen*, 47 ECAB 388 (1996); *Terry R. Hedman*, 38 ECAB 222, 227 (1986).

<sup>5</sup> *Elizabeth Stanislav*, 49 ECAB 540, 541 (1998).

<sup>6</sup> *Duane B. Harris*, 49 ECAB 170, 173 (1997).

<sup>7</sup> *Gary L. Fowler*, 45 ECAB 365, 371 (1994).

employment nor her belief that her condition was aggravated by her employment is sufficient to establish causal relationship.<sup>8</sup>

### **ANALYSIS**

OWCP accepted appellant's claim for an April 11, 2005 employment injury resulting in a contusion of the right knee and lower leg and multiple contusions of the trunk. Appellant stopped work on May 25, 2010 and alleged a recurrence of disability as of that date.

Appellant has not submitted any evidence that the nature of her job changed on May 25, 2010. Rather, she contends that her knee deteriorated to such a point by that date that she required surgery. The medical evidence is not sufficiently rationalized to support appellant's claim for a recurrence. Drs. Jackson and Trent indicated that she had a worsening of her knee injury sustained on April 11, 2005 on May 24, 2010. However, they did not provide a rationalized explanation as to why appellant's current symptoms were related to the April 11, 2005 injury. Furthermore, they did not provide any evidence of bridging symptoms. In order to establish that a 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 causal relationship.<sup>9</sup> The Board has found that vague or unrationalized medical opinions on causal relationship are of diminished probative value.<sup>10</sup> Accordingly, appellant did not submit medical evidence sufficient to establish a recurrence of disability.

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 her burden of proof to establish a recurrence of partial disability beginning May 25, 2010 causally related to her April 11, 2005 injury.

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<sup>8</sup> *M.L.*, Docket No. 11-880 (issued November 23, 2011)

<sup>9</sup> *M.M.*, Docket No. 10-2197 (issued September 15, 2011).

<sup>10</sup> See *Theron J. Barham*, 34 ECAB 1070 (1983).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated March 28, 2011 is affirmed.

Issued: January 20, 2012  
Washington, DC

Richard J. Daschbach, Chief Judge  
Employees' Compensation Appeals Board

Alec J. Koromilas, Judge  
Employees' Compensation Appeals Board

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