

benefits, which OWCP accepted for right knee sprain, right knee dislocation and meniscus tear of the right knee.

On March 5, 2012 appellant filed a Form CA-2a claim for benefits, alleging that he sustained a recurrence of disability on February 1, 2012 which was causally related to his accepted May 13, 1982 employment injury. He was seeking reimbursement for medical care he received on February 16, 2012. Appellant stated that he was not working as he had been laid off from work on January 31, 2011.

In a report dated June 21, 2012, Dr. Marshall S. Lewis, a specialist in orthopedic surgery, diagnosed recurrent internal derangement of the knee with gross degenerative changes to the lateral compartment. He advised that appellant had a prior injury and prior surgery to the right knee, with residual symptoms; he stated that, without any other history of trauma to the knee, these appeared to be the long-term sequelae of the original injury. Dr. Lewis noted that on April 12, 1983 appellant underwent an arthroscopy of the right knee with chondroplasty of the medial tibial condyle. He advised that appellant had since sustained cumulative trauma over time to the point where his right knee had worn out. Dr. Lewis concluded that, without any other known cause for the knee to degenerate, his condition stemmed from the May 13, 1982 employment injury.

By decision dated July 24, 2012, OWCP denied appellant's claim, finding that the medical evidence was insufficient to establish that he sustained a recurrence of his May 13, 1982 work injury as of February 1, 2012. By decision dated December 21, 2012, an OWCP hearing representative affirmed the July 24, 2012 OWCP decision. In a decision dated May 23, 2013,² the Board affirmed the December 12, 2012 decision of OWCP's hearing representative. The complete facts of this case are set forth in the Board's May 23, 2013 decision and are herein incorporated by reference.

In an August 24, 2013, report, Dr. Lewis advised that his review of medical literature supported his opinion that appellant had sustained a recurrence of his May 13, 1982 right knee injury as of February 1, 2012 and was currently experiencing residuals from that injury. He advised that appellant's work duties, such as repetitive and prolonged kneeling, squatting, bending and mechanical loading had been noted to be significant risk factors for osteoarthritis of the knee based on numerous occupational and academic studies. Dr. Lewis further asserted that additional studies indicated that surgical meniscectomy, which appellant underwent in 1983, was associated with degenerative arthritis of the knee. He opined that, based on high quality evidence and peer review biomedical studies published over many years, it has been documented that the cause for obesity and direct relationship to degenerative knee disease are related to the fact that the patient becomes more deconditioned and obese as the knee continues to deteriorate; these factors result in decreased activities of daily living, decreased overall tolerance to pain and interrupted sleep, all of which leads to increasing weight which further deteriorates the previous knee that had surgery, even going back to 1982.

Dr. Lewis concluded that, based on peer reviewed literature and appellant's medical history, the only reason that he has degenerative arthritis in his right knee was because the knee

² Docket No. 13-652 (issued May 23, 2013).

has a history of injury and subsequent surgery as previously outlined, with a date of injury of May 13, 1982. He asserted that there was no other known cause for this to occur.

By letter dated September 30, 2013, appellant, through his attorney, requested reconsideration.

By decision dated December 18, 2013, OWCP denied modification of the July 24, 2012 decision.

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.³ 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 an employee 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.⁴ Where no such rationale is present, medical evidence is of diminished probative value.⁵

In order to establish that a claimant's alleged recurrence of the condition was caused by the accepted injury, medical evidence of bridging symptoms between her present condition and the accepted injury must support the physician's conclusion of a causal relationship.⁶

OWCP's procedure manual provides that, after 90 days of release from medical care (based on the physician's statement or instruction to return as needed, or computed by the claims examiner from the date of last examination), a claimant is responsible for submitting an attending physician's report, which contains a description of the objective findings and supports causal relationship between the claimant's current condition and the previously accepted work injury.⁷

ANALYSIS

In the instant case, appellant has failed to submit a sufficiently rationalized, probative medical report which relates his claimed recurrence of disability for work as of February 1, 2012 to his accepted right knee condition. For this reason, he has not discharged his burden of proof

³ R.S., 58 ECAB 362 (2007); 20 C.F.R. § 10.5(x).

⁴ I.J., 59 ECAB 408 (2008); *Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

⁵ See *Ronald C. Hand*, 49 ECAB 113 (1997); *Michael Stockert*, 39 ECAB 1186, 1187-88 (1988).

⁶ *Mary A. Ceglia*, 55 ECAB 626 (2004).

⁷ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.5(b) (January 1995).

to establish his claim that he sustained a recurrence of disability as a result of his accepted employment condition.

Dr. Lewis stated in his August 24, 2013 report that appellant's work duties, which included repetitive and prolonged kneeling, squatting, bending and mechanical loading, were significant risk factors for osteoarthritis of the knee, as indicated in several occupational and academic studies; additional studies noted that a meniscectomy was associated with degenerative arthritis of the knee. He indicated that a patient with a degenerative knee becomes more deconditioned and obese as the knee continues to deteriorate. This deterioration and weight gain was likely to result in decreased activities of daily living, decreased overall tolerance to pain and interrupted sleep, which further deteriorated his right knee condition. Dr. Lewis opined that, in light of the medical literature pertaining to degenerative knee conditions and appellant's medical history, the only reason that he had degenerative arthritis of the right knee was he had a history of right knee injury in 1982.

Dr. Lewis did not relate, with supporting medical evidence, that bridging evidence since 1982 showed progressive spontaneous worsening of the accepted conditions. Rather, he relates, in general terms, appellant's degenerative knee conditions to appellant's continued work activities. A change in appellant's accepted conditions due to additional or new work factors, could constitute a new injury, not a recurrence of the accepted injury.⁸

Dr. Lewis did not provide a rationalized, probative medical opinion indicating that appellant sustained a recurrence of disability on February 1, 2012 causally related to his accepted May 13, 1982 right knee injury. While he cited articles from medical literature pertaining to degenerative knee conditions and stated that appellant had engaged in work activities which had a cumulative effect, aggravating his right knee condition and resulting in deterioration to the knee, he did not describe any alleged recurrence in detail or how the May 13, 1982 work accident would have been competent to cause the claimed recurrence of disability.

Dr. Lewis' opinion on causal relationship is of limited probative value in that he did not provide adequate medical rationale in support of his conclusions.⁹ He merely generally opined, in summary fashion, that appellant's 1982 right knee injury appeared to be the cause of his claimed recurrence because there was no other known cause in his medical history. These statements are broad and vague as they do not explain whether appellant's accepted May 13, 1982 employment injury contributed to his claimed condition and/or disability as of February 1, 2012. Dr. Lewis' opinion is equivocal in that he partially attributes appellant's right knee condition to cumulative trauma and deterioration over a period of time. He failed to sufficiently explain whether appellant required medical treatment beginning February 1, 2012 due to the accepted injury.¹⁰ For these reasons, the medical evidence is insufficient to establish a

⁸ See *S.F.*, 59 ECAB 525 (2008).

⁹ *William C. Thomas*, 45 ECAB 591 (1994).

¹⁰ See *Mary A. Ceglia*, *supra* note 6 (appellant has the burden of furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the condition is causally related to the employment injury and supports that conclusion with sound rationale).

recurrence of a medical condition causally related to the accepted right knee condition. The Board will affirm OWCP's December 18, 2013 decision.

CONCLUSION

The Board finds that appellant has not sustained a recurrence of disability on February 1, 2012 causally related to his accepted May 13, 1982 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the December 18, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 14, 2014
Washington, DC

Patricia Howard Fitzgerald, Acting Chief Judge
Employees' Compensation Appeals Board

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

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