United States Department of Labor
Employees' Compensation Appeals Board

T.M., Appellant	)	
and	)	**Docket No. 15-1471**
	)	**Issued: December 16, 2015**
DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF PRISONS, Fort Worth, TX, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
COLLEEN DUFFY KIKO, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On June 29, 2015 appellant filed a timely appeal of a June 2, 2015 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c)(1) and 501.3, the Board has jurisdiction over the merits of the case.

ISSUE

The issue is whether appellant has met his burden of proof to establish a consequential left knee injury as a result of his accepted right knee conditions.

FACTUAL HISTORY

On February 24, 2010 appellant, then a 39-year-old correctional officer, filed a traumatic injury claim (Form CA-1) alleging that he sustained right shoulder and right knee pain in the

[1] 5 U.S.C. § 8101 *et seq.*

performance of duty on that date. He described that while escorting two inmates on February 24, 2010 one of the inmates attempted to block appellant's path so that another inmate could dispose of contraband. Appellant had to use immediate force, place the inmate on the ground, and use restraints. OWCP accepted his claim for condition of the right shoulder, internal derangement of the right knee, and prepatellar bursitis on the right on March 31, 2010.

Appellant underwent right shoulder arthroscopic debridement of the glenoid with repair of superior labrum anterior to posterior (SLAP) lesion, arthroscopic bursectomy, acromioplasty, and mumford procedure on June 3, 2010. On December 9, 2010 he underwent arthroscopic adhesiolysis and debridement of partial thickness rotator cuff tear and glenoid lesion, acromioplasty, and intra-articular adhesiolysis. Appellant underwent a right arthroscopy with abrasion arthroplasty of the medial patellar facet and complete synovectomy on April 14, 2011. On July 25, 2011 he underwent patellofemoral arthrosis of the right knee. OWCP authorized the surgeries.

By decision dated April 9, 2012, OWCP accepted the additional condition of right radial styloid tenosynovitis as due to appellant's employment injury.

On May 10, 2012 appellant underwent excision of a cyst and de Quervain's release in the right wrist. Appellant's attending physician, Dr. Joseph Daniels, an osteopath, performed a right knee arthroscopy with complete synovectomy and intra-articular lysis of adhesions on June 21, 2012. Appellant underwent additional right arm surgery on October 24, 2013 due to biceps tenodeses with lysis of adhesions. These surgeries were also authorized by OWCP.

Appellant continued to report right shoulder pain on February 3, April 2, and 16, 2014. Dr. Daniels examined appellant due to right knee pain on May 22, 2014. On August 20, 2014 he described appellant's continuing right knee pain. Dr. Daniels examined appellant on September 5, 2014 due to right knee pain and giving way. He reported that appellant had developed a blood clot on May 8, 2014 in his right leg. In a report dated September 30, 2014, Dr. Daniels treated him due to low back and right lower extremity pain with paresthesias.

Appellant telephoned OWCP on January 23, 2015 regarding expanding his claim to include a left knee condition. He asked if OWCP had received a report from Dr. Daniels on April 2, 2015.

In a report dated March 24, 2015, Dr. Daniels described appellant's treatment for right knee pain. He noted that appellant underwent right knee surgeries on April 14, and July 25, 2011 as well as June 21, 2012. Dr. Daniels indicated that appellant utilized a walking cane and experienced moderate daily symptoms which limited activities. He also described tenderness and joint effusion in the left lower extremity. Dr. Daniels found that appellant's left knee demonstrated "a lot of patellofemoral pain which could be due to overcompensation from chronic right knee pain and internal derangement." He recommended a one-time evaluation to rule out acute or chronic issues.

On April 28, 2015 appellant telephoned OWCP and requested that his claim be expanded to include his left knee condition.

In a report dated May 26, 2015, an OWCP medical adviser reviewed the statement of accepted facts and noted the accepted conditions of right knee internal derangement, prepatellar bursitis, loose body, and traumatic arthropathy. He noted that the question was whether appellant had developed left knee pain or another left knee condition as a consequence from overuse as a result of the accepted right knee disorders. The medical adviser reviewed Dr. Daniels' March 24, 2015 report which, in his words, suggested that the left knee patellofemoral joint pain could be due to overcompensation from the chronic right knee pain and internal derangement. He pointed out that based on review of the literature[2] there was no clear evidence that an injury to one lower extremity would have any significant impact on the opposite uninjured limb, unless the injury resulted in partial or complete paralysis of the damaged leg or a shortening of the injured lower extremity resulting in limb length discrepancy of more than four centimeters. The medical adviser concluded that appellant's left knee disorder was not a consequence of the February 14, 2010 employment injuries.

By decision dated June 2, 2015, OWCP denied appellant's claim for a consequential injury to his left knee. It found that the medical adviser's determination that there was no evidence that appellant's right knee condition was of the type to impact his left knee was entitled to the weight of the medical evidence.

LEGAL PRECEDENT

It is an accepted principle of workers' compensation law that when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is deemed to arise out of the employment, unless it is the result of an independent intervening cause which is attributable to the employee's own intentional misconduct.[3] Once the work-connected character of any injury has been established, the subsequent progression of that condition remains compensable so long as the worsening is not shown to have been produced by an independent nonindustrial cause and so long as it is clear that the real operative factor is the progression of the compensable injury, associated with an exertion that in itself would not be unreasonable under the circumstances.[4]

A claimant bears the burden of proof to establish a claim for a consequential injury. As part of this burden, he must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relationship. Rationalized medical evidence is evidence which relates a work incident or factors of employment to a claimant's condition, with stated reasons of a physician. The opinion must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship of the diagnosed condition and the specific employment factors or employment injury.[5]

---

[2] Specifically, Dr. Daniels referred to the American Medical Association (A.M.A.) *Guides Newsletter*, the May/June 2012 edition. *See The Guides Newsletter*, May/June 2012.

[3] *Mary Poller*, 55 ECAB 483, 487 (2004); 1 Arthur Larson & Lex K. Larson, *The Law of Workers' Compensation*, 10-1 (2006).

[4] *Clement Jay After Buffalo*, 45 ECAB 707, 715 (1994).

[5] *Charles W. Downey*, 54 ECAB 421 (2003).

ANALYSIS

The only medical evidence supporting a causal relationship between appellant's accepted right knee conditions and his alleged consequential left knee condition is the March 24, 2015 report from Dr. Daniels. In this report Dr. Daniels described appellant's history of injury as well as his medical treatments for his right knee. He reported that appellant walked with a cane and that he experienced moderate daily symptoms which limited his activities. Dr. Daniels found tenderness and joint effusion in the left lower extremity. He concluded that appellant's left knee pain "could be due to overcompensation from chronic right knee pain and internal derangement." Dr. Daniels recommended a one-time evaluation to rule out acute or chronic issues.

The Board finds that Dr. Daniels' report is not sufficiently detailed and reasoned to meet appellant's burden of proof. Dr. Daniels' report is couched in speculative terms noting only that appellant's left knee pain "could" be the result of overcompensation due to his right knee conditions. Medical opinions that are speculative or equivocal in character are of diminished probative value.[6] Without a clear diagnosis of appellant's left knee condition, a history which includes the previous left knee injuries and a definitive opinion that this condition was caused or aggravated by appellant's employment, this report is insufficient to meet appellant's burden of proof or to create a conflict with the opinion of OWCP's medical adviser.

OWCP's medical adviser based his May 26, 2015 report on a review of the statement of accepted facts and Dr. Daniels' March 24, 2015 report. He also reviewed medical literature and concluded, based on this review, that unless the employment-related injury resulted in partial or complete paralysis of the damaged leg or a shortening of the injured lower extremity resulting in limb length discrepancy of more than four centimeters, then there should not be a resulting significant impact on the opposite uninjured limb. This report does not support appellant's claim for a consequential injury and it is detailed and well reasoned.

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 has failed to meet his burden of proof to establish that he developed a left knee consequential injury as a result of his accepted right knee conditions.

[6] *E.K.*, Docket No. 15-1381 (issued September 18, 2015).

ORDER

IT IS HEREBY ORDERED THAT the June 2, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 16, 2015
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board