



## **FACTUAL HISTORY**

This case has previously been before the Board.<sup>3</sup> The facts and circumstances from the Board's prior decision are hereby incorporated by reference. The facts relevant to this appeal will be set forth.

On June 26, 2002 appellant, then a 42-year-old letter carrier, filed a claim for a traumatic injury (Form CA-1) alleging that on June 24, 2002 she injured her left knee in the performance of duty. OWCP accepted the claim for bilateral internal derangement of the knees, bilateral medial meniscus tears, and localized post-traumatic osteoarthritis of the right knee.<sup>4</sup>

Appellant filed claims for recurrence and by decisions dated March 20 and October 3, 2006, OWCP found that appellant had not established a recurrence of disability from July 5 to 7, 2005. She filed additional claims for disability and in decisions dated May 10 and December 18, 2006, OWCP denied the claims for disability for the period December 7, 2005 to January 12, 2006 casually related to her June 24, 2002 employment injury.<sup>5</sup>

On April 26, 2007 appellant underwent a right total knee replacement.

Appellant filed an appeal with the Board for the decisions denying her disability claims. In a decision dated December 13, 2007, the Board found that she had established entitlement to wage-loss compensation for time lost for medical appointments on December 28, 2005 and January 3, 6, 9, and 11, 2006. The Board further found that OWCP should address whether appellant was disabled for the remaining intermittent dates from December 27, 2005 through January 12, 2006. The Board affirmed OWCP's finding that she was not entitled to wage-loss compensation from July 5 to 7, 2005.<sup>6</sup>

On December 20, 2010 OWCP accepted that appellant sustained a recurrence of a medical condition beginning August 12, 2010. Appellant received medical treatment for bilateral knee pain and low back pain on May 10, 2010. She also received treatment for back pain radiating into the left lower extremity and right knee pain on July 27, 2010.

On June 5, 2015 appellant filed another claim for recurrence (Form CA-2a) alleging that on March 24, 2015 she experienced a recurrence of the need for medical treatment for her left

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<sup>3</sup> Docket No. 07-0751 (issued December 13, 2007).

<sup>4</sup> Appellant underwent a partial medial and lateral meniscectomy, synovectomy, and patellar chondroplasty of the left knee on August 6, 2002, and a lateral meniscectomy, synovectomy, abrasion arthroplasty of the medial femoral condyle, and patellar chondroplasty of the right knee on March 11, 2003. On February 10, 2004 she underwent a partial medial and lateral meniscectomy, synovectomy, and patellar chondroplasty on the right knee. OWCP, in a decision dated September 24, 2004, granted appellant a schedule award for 10 percent permanent impairment of each lower extremity. By decision dated September 10, 2008, OWCP granted her a schedule award for an additional 40 percent permanent impairment of the right lower extremity.

<sup>5</sup> On April 13, 2007 OWCP accepted that appellant sustained a recurrence of a medical condition. In a decision dated May 1, 2007, it found that she had not established a recurrence of disability from April 14 to 27, 2006.

<sup>6</sup> Docket No. 07-0751 (issued December 13, 2007).

knee condition. She related that her left knee pain and symptoms were similar to what she experienced from her work injury. The employing establishment indicated that appellant performed limited duty after her original injury but was no longer working for the employing establishment.

OWCP, in a letter dated June 10, 2015, advised appellant of the definition of a recurrence of a medical condition and requested that she submit additional factual and medical evidence, including bridging evidence showing her treatment for a knee condition from 2010 to the present.

By decision dated July 15, 2015, OWCP found that appellant had not established a recurrence of a medical condition in March 2015. It noted that she last received medical treatment for her work injury on July 27, 2010.

In a report dated July 6, 2015, Dr. Adam Freedhand, a Board-certified orthopedic surgeon, evaluated appellant for left knee pain which had worsened in March 2015. He obtained a history of a June 24, 2002 work injury with left knee surgery in 2002. Dr. Freedhand interpreted x-rays as showing “large osteophytes and subchondral sclerosis consistent with advanced degenerative changes.” He diagnosed acute left knee pain and localized primary osteoarthritis of the lower leg. Dr. Freedhand recommended a total knee replacement.

Appellant, in a letter dated July 17, 2015, advised that her prior physician, now deceased, told her that she would experience difficulty with her left knee until she had a total knee replacement. She indicated that she had originally filed an earlier notice of recurrence in March 2015 which was lost. Appellant advised that she occasionally used a cane.

On October 6, 2015 Dr. Pradeep Kodall, a Board-certified orthopedic surgeon, discussed appellant’s history of a left knee arthroscopy and partial meniscectomy on August 6, 2002. He related, “Loss of meniscal tissue that occurs with a partial meniscectomy procedure increases stress on articular cartilage and can lead to progressive arthritis with time. As a result the initial injury could have increased [appellant’s] risk of developing advanced arthritis earlier leading to her present state and potentially leading to a knee replacement.”

On October 19, 2015 appellant requested reconsideration of the July 15, 2015 decision. She submitted reports from her 2002 left knee surgery.

In a report dated January 4, 2016, Dr. Michael D. Kent, a Board-certified orthopedic surgeon, related that appellant had injured the left knee at work on June 24, 2002. Appellant complained of pain in her left knee for the past six months. Dr. Kent diagnosed degenerative joint disease of the left knee and recommended a total knee arthroplasty.

By decision dated February 25, 2016, OWCP denied modification of its July 15, 2015 decision. It found that the medical evidence was insufficient to show that appellant required additional medical treatment due to her June 24, 2002 work injury. OWCP explained that she had not submitted any bridging evidence.

On appeal appellant asserts that she had initially filed a notice of recurrence in March 2015 but it was lost. She notes that it was difficult finding a physician who accepted

workers' compensation after her physician died. Appellant did not know that she had to continue to seek medical treatment for her condition. She asserts that the medical evidence demonstrates that she experienced knee problems due to her work injury.

### **LEGAL PRECEDENT**

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.<sup>7</sup>

If a claim for recurrence of medical condition is made more than 90 days after release from medical care, a claimant is responsible for submitting a medical report supporting a causal relationship between the employee's current condition and the original injury in order to meet her burden.<sup>8</sup>

Appellant has the burden of proof to establish that she sustained a recurrence of a medical condition that is causally related to her accepted employment injury. She must submit medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, supports that the condition is causally related and supports the conclusion with sound medical rationale.<sup>9</sup>

In order to establish that an alleged recurrence of a medical 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.<sup>10</sup>

### **ANALYSIS**

OWCP accepted that appellant sustained bilateral internal derangement of the knees, bilateral medial meniscus tears, and localized post-traumatic osteoarthritis of the right knee as the result of a June 24, 2002 employment injury. Subsequently on April 26, 2007 appellant underwent left knee surgery on August 6, 2002 and right knee surgery on March 11, 2003 and February 10, 2004. On April 26, 2007 appellant underwent a right total knee replacement.

On June 5, 2015 appellant alleged that she experienced a recurrence of the need for medical treatment beginning March 24, 2015 due to her accepted left knee condition. She last received medical treatment on May 10, 2010 for complaints of bilateral knee and low back pain and on July 27, 2010 for complaints of low back pain radiating into the lower extremity on the

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<sup>7</sup> 20 C.F.R. § 10.5(y).

<sup>8</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.4(b) (June 2013); *see also J.M.*, Docket No. 09-2041 (issued May 6, 2010).

<sup>9</sup> *See K.T.*, Docket No. 15-1758 (issued May 24, 2016); *O.H.*, Docket No. 15-0778 (issued June 25, 2015).

<sup>10</sup> *See J.S.*, Docket No. 16-0457 (issued June 6, 2016); *Mary A. Ceglia*, 55 ECAB 626 (2004).

left side. Appellant has the burden to submit medical evidence sufficient to establish a causal relationship between her current condition and her work injury.<sup>11</sup>

In a report dated July 6, 2015, Dr. Freedhand noted that appellant complained of pain in her left knee that had worsened in March 2015. He discussed her history of a left knee injury on June 24, 2002 with subsequent knee surgery. Dr. Freedhand advised that x-rays showed significant degenerative changes. He diagnosed acute knee pain and localized primary osteoarthritis of the lower leg and recommended a total knee replacement. Dr. Freedhand, however, did not address the cause of appellant's knee arthritis. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship.<sup>12</sup>

Dr. Kodall, on October 6, 2015, reviewed appellant's history of left knee surgery and opined that the tissue loss that accompanied a partial meniscectomy could stress the articular cartilage and arthritis over time. He related that because of her left knee surgery "could have increased her risk of developing advanced arthritis earlier leading to her present state and potentially leading to a knee replacement." Dr. Kodall's opinion, however, that appellant's left knee surgery could have led to the development of arthritis and the need for a total knee replacement is couched in speculative terms. The Board has held that medical opinions which are speculative or equivocal in character have little probative value.<sup>13</sup>

In a report dated January 4, 2016, Dr. Kent obtained a history of appellant experiencing a June 24, 2002 left knee injury at work with increased left knee pain over the last six months. He diagnosed degenerative joint disease of the left knee and recommended a total knee arthroplasty. Dr. Kent did not address the cause of the diagnosed condition or the need for surgery and thus his opinion is of diminished probative value.<sup>14</sup>

On appeal appellant contends that her notice of recurrence of a medical condition in March 2015 was lost and she had difficulty finding a physician who treated workers' compensation patients. She was not aware that she needed to continue to seek treatment for her condition and maintains that the medical evidence attributes her current condition to her work injury. As found, however, appellant failed to submit any medical reports from a physician who, on the basis of a complete and accurate factual and medical history, concluded that she continued to require medical treatment due to the accepted work injury. As she has not submitted sufficient medical evidence showing that she sustained a recurrence of medical condition due to her accepted employment injury, the Board finds that she has not met her burden of proof.<sup>15</sup>

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<sup>11</sup> See *O.H.*, *supra* note 9.

<sup>12</sup> See *S.E.*, Docket No. 08-2214 (issued May 6, 2009); *Conard Hightower*, 54 ECAB 796 (2003).

<sup>13</sup> See *L.R. (E.R.)*, 58 ECAB 369 (2007); *Kathy A. Kelley*, 55 ECAB 206 (2004).

<sup>14</sup> See *supra* note 12.

<sup>15</sup> See *E.C.*, Docket No. 16-0413 (issued June 20, 2016).

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 and 20 C.F.R. §§ 10.605 through 10.607.

**CONCLUSION**

The Board finds that appellant has not established that she sustained a recurrence of her medical condition beginning March 24, 2015 causally related to her June 24, 2002 employment injury.

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 25, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 28, 2016  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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