

August 16, 2010 when she fell while loading her vehicle. OWCP accepted the claim on January 4, 2011 for right knee contusion.

Appellant underwent right knee arthroscopic surgery on September 9, 2010.² Dr. Kevin Kessler, a Board-certified orthopedic surgeon, indicated the postoperative diagnosis was right knee medial and lateral meniscus tear. In a report dated December 22, 2010, Dr. Kessler wrote that appellant continued to have ongoing right knee osteoarthritis and would have a series of pain relief injections.

Appellant returned to her regular work on January 4, 2011.

In a report dated January 2, 2013, Dr. Anthony Schiuma, a Board-certified orthopedic surgeon, reported that appellant had an injury on August 16, 2010, when she hit her right knee on the bumper of her work vehicle. He indicated that appellant had been having pain since that time and noted that she had undergone surgery. Dr. Schiuma provided results on examination and diagnosed traumatic right knee arthritis and status post torn meniscus right knee. In an October 30, 2014 report, he indicated that appellant had right knee chondromalacia and had started a new series of Synvisc pain relief injections in the right knee.

Dr. Schiuma reported on April 13, 2015 that appellant again was having right knee pain and would be unable to work the next two days. On September 14, 2015 he again indicated that appellant had a flare-up of knee pain.

By note dated March 11, 2016, Dr. Schiuma reported that appellant had a pain relief injection on February 2, 2016, but her right knee was currently painful. He reported that appellant had pain on range of motion, with synovitis of the right knee, and she should be off work for the next week. Dr. Schiuma wrote that appellant should avoid bending, squatting, and kneeling. On March 17, 2016 he wrote that appellant was having right knee pain and was put off work. Dr. Schiuma provided a note dated March 17, 2016 that appellant was unable to work until March 21, 2016.

Appellant filed a claim for compensation (Form CA-7) on April 4, 2016 for the period March 12 to 17, 2016. By letter dated April 6, 2016, OWCP indicated that it appeared appellant was claiming a recurrence of disability commencing March 12, 2016. It advised appellant to submit additional factual and medical evidence to support her claim. Appellant was afforded 30 days to submit the necessary evidence.

In a May 2, 2016 report, Dr. Schiuma wrote that appellant reported her right knee was aggravated by getting in and out of her mail truck. He indicated that appellant was injected with cortisone and was advised to limit her activities over the next few days.

By decision dated June 21, 2016, OWCP determined that appellant had not established a recurrence of disability. It found she had not submitted sufficient medical evidence to establish

² Appellant had a prior traumatic injury claim for a right knee injury on May 11, 2007 under OWCP File No. xxxxxx517. OWCP accepted this claim for a temporary aggravation of right knee osteoarthritis. Appellant was off work following surgery and received wage-loss compensation in that claim.

the claim. In addition, OWCP found appellant had not described in detail the alleged recurrence of disability.

On November 28, 2016 appellant requested reconsideration of her claim. She noted that she had a previous claim for a right knee injury that apparently had been closed without her knowledge. Appellant also noted that she had sustained a right knee injury in 1996. She related that her job involved walking long distances, as well as repetitive activity such as twisting, turning, and lifting heavy packages.

In a July 28, 2016 report, Dr. Schiuma wrote that appellant related having more right knee pain throughout the day, as she walked. He noted that appellant had back pain as well. Dr. Schiuma indicated that appellant's right knee was injected with cortisone. In reports dated October 19 and November 3 and 21, 2016, he indicated that appellant had received a pain medication injection in the right knee.

By decision dated February 16, 2017, OWCP reviewed the merits of her claim and denied modification. It found the medical evidence was insufficient to establish a recurrence of disability. OWCP noted that, if appellant were claiming that new work factors aggravated her right knee condition, this could be a claim for a new injury.

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 had resulted from a previous injury or illness without an intervening or new exposure to the work environment that caused the illness.³

An employee who claims a recurrence of disability due to an accepted employment injury has the burden of proof to establish by the weight of substantial, reliable, and probative evidence that the disability for which he or 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 reasoning.⁴ Where no such rationale is present, medical evidence is of diminished value.⁵

ANALYSIS

In the present case, OWCP accepted that appellant sustained a right knee contusion on August 16, 2010. Appellant had been working regular duty and filed a claim for compensation commencing March 12, 2016. OWCP developed the claim as a recurrence of disability.

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

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

⁵ *See Ronald C. Hand*, 49 ECAB 113 (1957); *Michael Stockert*, 39 ECAB 1186, 1187-88 (1988).

It is appellant's burden of proof to submit evidence sufficient to establish the claim for compensation. In a note dated March 11, 2016, Dr. Schiuma indicated that appellant had a painful right knee and that he would place her off work. This evidence is of little probative value with respect to a recurrence of disability. Dr. Schiuma provided no medical history or any discussion of causal relationship between appellant's current right knee condition and her accepted employment injury. To establish that a claimed recurrence of the condition was caused by the accepted employment injury, medical evidence of bridging symptoms between the present condition and the accepted injury must support the physician's conclusion of a causal relationship.⁶ Dr. Schiuma's opinion is unsupported by rationalized medical evidence which demonstrates that the claimed recurrence was caused, precipitated, accelerated, or aggravated by the accepted injury or which explains the nature of the relationship between appellant's current conditions and her accepted work injury.⁷

In a May 2, 2016 note, Dr. Schiuma referred to appellant's job duties, of getting in and out of her work vehicle, as aggravating her right knee condition. However, as noted by OWCP, if appellant is claiming that her current work duties were aggravating her condition, this would be a claim for a new injury. A new injury effectively negates appellant's recurrence claim.⁸ As discussed above, a recurrence of disability includes a work stoppage caused by a spontaneous material change in the medical condition.⁹ That change must result from a previous injury or occupational illness rather than an intervening injury or new exposure to factors causing the original illness. It does not include a condition that results from a new injury, even if it involves the same part of the body previously injured.¹⁰

Similarly, in a July 16, 2016 note, Dr. Schiuma reported that appellant's right knee pain worsened during the day after walking. He thus implicated a new injury which constitutes an intervening cause breaking the chain of causation from the accepted injury.¹¹

The medical evidence of record does not contain a rationalized medical opinion establishing a recurrence of disability commencing March 12, 2016 casually related to an employment injury. It is appellant's burden of proof to establish the claim, and the Board finds appellant has not met her burden of proof based on the evidence of record.

On appeal appellant argues that the current case record should be combined with the 2007 claim. The Board finds that combining the case records would be administratively appropriate, as both claims involve the right knee. On return of the case record the claims should be combined.

⁶ See *H.D.*, Docket No. 17-1165 (issued September 8, 2017).

⁷ See *G.L.*, Docket No. 16-1542 (issued August 25, 2017).

⁸ *A.W.*, Docket No. 17-0638 (issued August 29, 2017).

⁹ *Supra* note 3.

¹⁰ See *A.H.*, Docket No. 16-1824 (issued June 2, 2017); see also Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences* Chapter 2.1500.3(c) (June 2013).

¹¹ *Supra* note 8.

The medical evidence of record therefore does not meet appellant's burden of proof to establish a recurrence of disability commencing March 12, 2016 causally related to her accepted August 16, 2010 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 establish a recurrence of disability commencing March 12, 2016 causally related to her accepted August 16, 2010 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated February 16, 2017 is affirmed.

Issued: November 6, 2017
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