United States Department of Labor
Employees' Compensation Appeals Board

A.C., Appellant	)	
and	)	**Docket No. 17-0521**
	)	**Issued: April 24, 2018**
U.S. POSTAL SERVICE, POST OFFICE, Washington Beach, FL, 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
PATRICIA H. FITZGERALD, Deputy Chief Judge
ALEC J. KOROMILAS, Alternate Judge

JURISDICTION

On January 9, 2017 appellant filed a timely appeal from a December 21, 2016 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) and 501.3, the Board has jurisdiction over the merits of the claim.

ISSUE

The issue is whether appellant met his burden of proof to establish a recurrence of a medical condition causally related to his accepted August 29, 2015 employment injury.

FACTUAL HISTORY

On September 12, 2015 appellant, then a 59-year-old bicycle letter carrier, filed a traumatic injury claim (Form CA-1) alleging that, on August 29, 2015, he fell off his bicycle while loading

[1] 5 U.S.C. § 8101 *et seq.*

from a relay box. He stopped work on August 29, 2015 and resumed full-duty work on September 11, 2015.

On October 16, 2015 Dr. Michael G. Dennis, a Board-certified orthopedic surgeon, noted that appellant was working full duty and had reported that his knee pain was mostly resolved. An impression of improved bilateral contusions was provided. Dr. Dennis concluded that appellant could continue working full duty and that he had no impairment. He noted that appellant could be seen in follow-up on an as-needed basis. OWCP administratively accepted the claim for contusion of the left knee and contusion of right knee as a minor injury that resulted in minimal or no lost time from work and payment of a limited amount of medical expenses.

On July 9, 2016 appellant filed a notice of recurrence (Form CA-2a) alleging a recurrence of a medical condition beginning December 1, 2015 due to a worsening of his accepted work-related conditions. No evidence was submitted with his recurrence claim.

In an August 3, 2016 development letter, OWCP advised appellant that additional factual and medical evidence was necessary to substantiate his need for medical treatment, including a report from his attending physician addressing the relationship between any current condition and his accepted work injury. He was afforded 30 days to submit the necessary evidence.

Appellant, in a narrative statement dated August 12, 2016, asserted that he continued to work with knee pain after the injury, but the pain worsened and was now constant. He denied any new injury, but indicated that the area where he delivered mail on his bicycle had been under construction for a long period of time and, as such, he had to work longer hours. Appellant stated that, after he received a magnetic resonance imaging (MRI) scan, his doctor told him he needed meniscus surgery.

In an August 12, 2016 report, Dr. Dennis noted that appellant returned for a follow-up visit and had reported that his left knee had worsened over the past three months. He denied any new trauma or fall affecting his knee. Dr. Dennis noted that appellant had underwent a left knee MRI scan under his private insurance on June 28, 2016 which revealed medial meniscal tearing. An impression of left knee pain and medial meniscal tearing was provided. Dr. Dennis placed appellant on light duty with restrictions.

By decision dated September 7, 2016, OWCP found that appellant had not established a recurrence of a medical condition due to a material change/worsening of his accepted work-related conditions. It determined that Dr. Dennis' August 12, 2016 report was not rationalized and failed to explain why and how appellant's current left knee condition is causally related to the August 29, 2015 employment injury.

On September 26, 2016 OWCP received appellant's September 20, 2016 request for reconsideration. A copy of the June 28, 2016 left knee MRI scan was provided.

In a September 9, 2016 report, Dr. Dennis indicated that, although appellant was on light duty, he felt like he was working full duty. He provided examination findings and discussed the June 28, 2016 MRI scan of the left knee, which revealed radial tearing of the posterior medial meniscus at the meniscal tibial attachment. An impression of left knee medial meniscal tear was provided. Dr. Dennis maintained appellant on light-duty work status. Due to the persistence of

the symptoms and lack of relief with conservative treatment, he recommended left knee arthroscopy. A copy of the authorization was attached along with a September 9, 2016 work restriction note indicating appellant should continue light duty.

By decision dated December 21, 2016, OWCP denied modification of its September 7, 2016 decision. It noted that since appellant described several work factors that had occurred since the August 29, 2015 injury, a new injury claim should be filed.

LEGAL PRECEDENT

The United States shall furnish to an employee who is injured while in the performance of duty the services, appliances, and supplies prescribed or recommended by a qualified physician that the Secretary of Labor considers likely to cure, give relief, reduce the degree or the period of any disability, or aid in lessening the amount of any monthly compensation.[2]

A 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.[3]

If a claim for a 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 causal relationship between the employee's current condition and the original injury in order to meet his burden.[4]

An employee has the burden of proof to establish that he or she sustained a recurrence of a medical condition that is causally related to her accepted employment injury. To meet this burden, the employee 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 his or her conclusion with sound medical rationale.[5] Where no such rationale is present, medical evidence is of diminished probative value.[6]

ANALYSIS

The Board finds that appellant has not established a recurrence of medical condition causally related to his accepted August 29, 2015 employment injury.

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[2] 5 U.S.C. § 8103(a).

[3] 20 C.F.R. § 10.5(y).

[4] Federal (FECA) Procedure Manual, Part 2 -- *Recurrences*, Chapter 2.1500.4(b) (June 2013); *see also J.M.*, Docket No. 09-2041 (issued May 6, 2010).

[5] *O.H.*, Docket No. 15-0778 (issued June 25, 2015).

[6] *Michael Stockert*, 39 ECAB 1186, 1187-88 (1988); *see Ronald C. Hand*, 49 ECAB 113 (1957).

OWCP accepted that appellant sustained a left knee contusion and a right knee contusion as a result of an August 29, 2015 employment injury when he fell off his bicycle. On July 9, 2016 appellant filed a claim for a recurrence of a medical condition due to his August 29, 2015 employment injury. OWCP denied his claim for recurrence as he had not established that his current left knee condition was causally related to his accepted injury.

On October 16, 2015 Dr. Dennis reported that appellant was working full duty and had related that his knee pain was mostly resolved. An impression of improved bilateral contusions was provided. Dr. Dennis concluded that appellant could continue working fully duty and released him from care.

There is a gap in the medical evidence from Dr. Dennis' October 16, 2015 release until June 28, 2016, when appellant underwent a left knee MRI scan. In his August 12, 2016 report, Dr. Dennis indicated that the June 28, 2016 MRI scan of the left knee revealed medial meniscal tearing and that appellant had denied any new injury or trauma to the knee. He placed appellant on light duty. Dr. Dennis, however, did not address causation of the left knee meniscal tearing and, thus, his opinion is of diminished probative value. 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.[7]

Dr. Dennis, in his September 9, 2016 report, maintained appellant on light-duty work status. He provided examination findings, discussed the June 28, 2016 MRI scan of the left knee, and provided an impression of left knee medial meniscal tear. Dr. Dennis recommended left knee arthroscopy due to the persistence of appellant's symptoms and lack of relief with conservative treatment. He did not, however, provide an explanation as to how or why appellant's previously improved knee contusion from the August 29, 2015 work injury had progressed into a medial meniscal tear approximately 10 months later. A physician must provide an opinion on whether the employment incident described caused or contributed to the claimant's diagnosed medical condition and supports that opinion with medical reasoning to demonstrate that the conclusion reached is sound, logical, and rational.[8] The Board finds that Dr. Dennis failed to provide a rationalized medical opinion.

Appellant also submitted to the record a June 28, 2016 left knee MRI scan. Medical evidence of diagnostic testing is of limited probative value as it fails to provide a physician's opinion on causal relationship between appellant's work incident and the diagnosed conditions.[9]

As discussed, appellant has the burden of proof to submit reasoned medical evidence supporting his claim that he requires further medical treatment as a result of his accepted

[7] *S.E.*, Docket No. 08-2214 (issued May 6, 2009); *Conard Hightower*, 54 ECAB 796 (2003).

[8] *See John W. Montoya*, 54 ECAB 306 (2003).

[9] *See M.S.*, Docket No. 17-1044 (issued February 2, 2018).

employment injury.[10] He failed to provide such evidence and thus, the Board finds that he has not met his burden of proof.

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 a recurrence of a medical condition causally related to his accepted August 29, 2015 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the December 21, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 24, 2018
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

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

[10] *See T.M.*, Docket No. 16-1456 (issued January 10, 2017); *see also V.P.*, Docket No. 16-0614 (issued May 18, 2016).