United States Department of Labor
Employees' Compensation Appeals Board

L.C., Appellant	)	
and	)	**Docket No. 17-1788**
	)	**Issued: September 19, 2018**
U.S. POSTAL SERVICE, POST OFFICE, Kearney, NJ, Employer	)	

Appearances:
James D. Muirhead, Esq., for the appellant[1]
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On August 21, 2017 appellant, through counsel, filed a timely appeal from an April 10, 2017 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUES

The issues are: (1) whether appellant has met his burden of proof to establish that he sustained a right knee injury causally related to the accepted January 21, 2012 employment

[1] In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.; see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

[2] 5 U.S.C. § 8101 *et seq.*

incident; and (2) whether appellant has met his burden of proof to establish a recurrence of disability on January 21, 2012 causally related to his accepted May 23, 1991 employment injury.

FACTUAL HISTORY

The case has previously been before Board.[3] The facts as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On May 23, 1991 appellant, then a 42-year-old mail carrier, filed a traumatic injury claim (Form CA-1) alleging that he sustained injury when tripped on a sidewalk and landed on his right leg while in the performance of duty. OWCP assigned OWCP File No. xxxxxx082 and accepted the claim for right knee sprain.[4]

On January 21, 2012 appellant filed a traumatic injury claim (Form CA-1) alleging that on that date he suffered a swollen and painful right knee while walking his route. OWCP assigned that claim OWCP File No. xxxxxx499.

By development letter dated February 10, 2012, OWCP advised appellant of the type of evidence needed to establish his claim. It afforded him 30 days to submit this evidence.

In a statement dated February 22, 2012, appellant stated that he was delivering mail on a snowy day and felt pain in his right knee, and was able to finish the route. He stated that his knee was particularly painful walking up and down stairs. Appellant noted that his knee started to swell and stiffen.

In a February 6, 2012 report, Dr. Teofila A. Dauhajre, a Board-certified orthopedic surgeon, noted that x-rays of appellant's right knee demonstrated tricompartmental knee osteoarthritis with spurring of the tibial spine and narrowing of the intercondylar notch region, one centimeter loose body in the posterior joint space, small knee joint effusion, and no fractures or dislocations. His impression at that time was internal degenerative changes to the medial joint line *versus* a tear of the posterior horn of the medial meniscus of the right knee. In a duty status report of February 17, 2012 (Form CA-17), Dr. Dauhajre again noted appellant's diagnoses and opined that appellant was totally incapacitated. He referred appellant to physical therapy, and appellant also submitted these notes.

By decision dated March 12, 2012, OWCP denied appellant's traumatic injury claim as the medical evidence did not demonstrate that the diagnosed medical conditions were causally related to the accepted employment-related incident of January 21, 2012.

On April 5, 2012 appellant requested reconsideration.

[3] Docket No. 15-0436 (issued January 20, 2016).

[4] A June 7, 1991 magnetic resonance imaging (MRI) scan of the right knee was interpreted by Dr. Robert Traflet, a Board-certified radiologist, as showing a complete tear of the anterior cruciate ligament (ACL) and anterior horn of the lateral meniscus. Appellant underwent arthroscopic surgery on by Dr. Jaffe on September 16, 1991.

In a March 9, 2012 report interpreting a magnetic resonance imaging (MRI) scan of March 8, 2012, Dr. Denise McCarthy, a Board-certified radiologist, diagnosed chronic ACL tear, degeneration and tear body and posterior horn of the lateral meniscus, small joint effusion with slightly complex fluid, and tear of the posterior horn medial meniscus adjacent to the meniscal root and probable meniscal ossicle.

Appellant continued to submit reports by Dr. Dauhajre. In a March 24, 2012 report, Dr. Dauhajre reiterated his diagnoses and noted that they were supported by appellant's right knee MRI scan of March 8, 2012. He indicated that appellant had an aggravation of appellant's preexistent degenerative joint disease of the right knee in that appellant was asymptomatic prior to the job-related injury of January 21, 2012. Dr. Dauhajre indicated that appellant's moderate degenerative disease was noted on February 6, 2012 x-rays of appellant's right knee, which demonstrated moderate tricompartmental knee osteoarthritis with spurring of the tibial spine and narrowing of the intercondylar notch region.

Dr. Dauhajre further opined in his March 24, 2012 report that the above impressions were causally related to appellant's employment-related activities as a mail carrier. He explained that appellant's job requirements as a mail carrier, requiring ambulation approximately five miles per day with weight and climbing up and down hills, were the competent cause for aggravation of his 1991 preexisting right knee condition that was asymptomatic until January 21, 2012.

Dr. Dauhajre continued to submit medical reports documenting his treatment of appellant.

In a statement received by OWCP on May 17, 2012, appellant noted that he originally injured his knee while working at the employing establishment on May 23, 1991, and that he underwent surgery for a torn ACL and torn meniscus.

In a decision dated July 6, 2012, OWCP denied modification of its prior decision. It determined that the medical evidence of record was insufficient to establish that the diagnosed conditions were causally related to the employment incident of January 21, 2012.

On October 5, 2012 appellant, through counsel, requested reconsideration. Counsel noted that appellant was originally injured on May 23, 1991 and that his doctor at that time was Dr. Jaffe.

In a September 4, 2012 report, Dr. Jaffe opined that, based on his review of appellant's record, he aggravated a preexisting condition on January 21, 2012. He noted that it was clear that the aggravation would cause progressive degenerative arthritis, and in the future require a total knee replacement.

On December 19, 2012 OWCP found that the evidence of record was insufficient to warrant modification of the July 6, 2012 decision.

In a January 7, 2013 report, Dr. Jaffe opined that it was common knowledge that an ACL injury would lead to early degeneration and osteotraumatic arthritis. Due to changes in the topography of the knee as a result of other injuries and the degenerative change, a chronic meniscus tear would have to be ruled out. In a January 22, 2013 note, Dr. Jaffe explained that appellant had been under his care for many years and had sustained a right knee employment-related injury in May 1991. He noted that appellant returned to be evaluated on July 26, 2012 after seeing another

orthopedist for problems with his knee sustained in a work-related injury of January 2012. Dr. Jaffe noted that appellant had a job which involved driving, that in January 2012 he was removed from driving and placed on walking delivery, and that shortly thereafter the affected knee became swollen. On examination, appellant was found to have weakness, patella femoral crepitus, tenderness and instability. On January 22, 2013 he continued to experience pain and tenderness as well as weakness and gait disturbance. Dr. Jaffe opined that, as a result of walking in the snow, appellant aggravated a preexisting right knee injury that occurred on May 23, 1991. Since appellant was doing fairly well until he began walking a route and given his prior history of injury which was quite severe in nature, Dr. Jaffe concluded that appellant aggravated his preexisting condition and required arthroscopic surgery as a result of the January 21, 2012 walking incident.

On March 4, 2013 appellant filed a notice of recurrence (Form CA-2) alleging a recurrence of the May 23, 1991 injury on January 21, 2012. He stated that for the last several years he had been driving a truck, but that on January 21, 2012 he was required to walk to deliver mail and his knee then swelled up. Appellant explained that his knee was very badly injured in 1991 and that he had developed arthritis, as Dr. Jaffe predicted would occur back in 1991.

By letter dated March 4, 2013, the employing establishment controverted the recurrence claim. It noted that appellant called in for sick leave on January 23, 2012, that he never returned to duty, and that he retired effective September 22, 2012. The employing establishment noted that, on January 18, 2012, appellant had a second motor vehicle accident, following a motor vehicle accident on October 29, 2011. Appellant's driver's license was revoked until he underwent remedial training. It noted that appellant was afforded the opportunity to deliver mail since he could not drive, pending the remedial training.

In a March 5, 2012 attending physician's report (Form CA-20) submitted with the recurrence claim, Dr. Dauhajre stated that appellant had an internal derangement of the right knee, rule out chondromalacia right knee, and rule out torn medial meniscus. He checked a box marked "yes" indicating that the condition was caused or aggravated by an employment activity and noted that appellant was a letter carrier.

In a statement dated April 2, 2013, appellant related that he had a severe injury to his right knee on May 24, 1991, from which he had never recovered. He stated that he underwent surgery for a torn meniscus and torn ACL by Dr. Jaffe on September 13, 1991 and that Dr. Jaffe indicated that his knee would never be the same as he would have a permanent injury with some arthritis and some instability. Appellant noted that, at the time of the January 21, 2012 recurrence, he had been working as a truck driver, for about three years, but that on or about January 20, 2012 the employing establishment asked him to deliver mail. He was delivering mail on January 21, 2012 in the snow when his right knee began to swell. Appellant stated his belief that his right knee condition was related to the accepted May 23, 1991 employment injury. He noted that his knee had worsened since May 23, 1991 and that he specifically requested the truck driving job so that he did not have to walk on the knee. Appellant stated that he had not sought any treatment from 1991/1992 until 2012, but that he did have right knee pain. He further noted that he had not returned to work since January 21, 2012.

In an April 29, 2013 decision, OWCP denied modification of its July 6, 2012 decision as the evidence still did not provide a well-reasoned medical explanation, with supporting objective

findings, from a qualified physician as to how ascending and descending stairs and stepping through deep snow while delivering mail on January 21, 2012 directly caused or aggravated a medical condition.

In a May 31, 2013 decision, OWCP denied appellant's claim for recurrence of disability. It noted that even though appellant stated that he had pain prior to the alleged recurrence, the medical evidence of record did not substantiate that the accepted condition of the May 23, 1991 employment injury changed or worsened causing disability. OWCP stated the fact that the new traumatic injury claim had been denied did not establish that appellant's current medical condition was related to the May 23, 1991 accepted injury. It also noted that this decision did not affect appellant's entitlement to medical benefits for his accepted condition.

By letter dated June 19, 2013, appellant, through counsel, requested a telephonic hearing before an OWCP hearing representative regarding the May 31, 2013 decision. During the hearing held on September 11, 2013, he testified that approximately five years prior his knee became painful and that he sometimes had a little instability when walking. Appellant was prescribed medication by Dr. Svetlana Salerno, a family practitioner, so at that time, he bid on a truck job.

On September 30, 2013 appellant, through counsel, requested reconsideration. He asked that appellant's case be approved for an aggravation, acceleration, or exacerbation of his underlying accepted employment injury.

In a statement dated October 4, 2013, appellant reiterated the history provided in his April 2, 2013 statement.

In an October 7, 2013 report, Dr. Dauhajre summarized his prior findings of internal derangement of the right knee and aggravation of appellant's preexistent degenerative joint disease that was asymptomatic prior to the job-related injury of January 21, 2012. He again opined that appellant was totally disabled from work. Dr. Dauhajre reviewed the other medical opinions, including the reports of Dr. Salerno dated September 10, 2013 and the reports of Dr. Jaffe dated January 7 and 22, 2013. He also reviewed the operative report of September 13, 1991. Dr. Dauhajre opined that within a reasonable degree of medical probability that appellant's current right knee condition was causally related to his job-related activities as a letter carrier for the employing establishment. He noted that appellant described his job as requiring excessive ambulation of 5 to 6 hours a day, ascending and descending stairs for approximately 35 to 45 minutes a day, repetitive squatting and kneeling on the right lower extremity, and carrying objects greater than 50 pounds. In addition Dr. Dauhajre stated that appellant's prior full ACL tear and medical necessity for a partial medial meniscectomy of the right knee on September 13, 1991 predisposed appellant to joint disease of the right knee that made his knee more vulnerable to aggravation and reinjury to his right knee. He explained that appellant's job duties on January 21, 2012 resulted in severe swelling and aggravation of his right knee condition as well as a tear of the medial meniscus that was noted on clinical examination and by MRI scan of the right knee on March 8, 2012.

By letter dated September 4, 2013, Dr. Jaffe noted that he has reviewed Dr. Dauhajre's notes and his opinion remained unchanged. He noted that he agreed with Dr. Dauhajre that appellant should undergo arthroscopy of the knee to assess the internal structures. However,

Dr. Jaffe noted that, with the aggravation of the preexisting condition, appellant was going to continue to develop progressive arthritis and in the future require the need for a total knee replacement.

By decision dated December 4, 2013, the hearing representative affirmed OWCP's May 31, 2013 decision denying appellant's claim in OWCP File No. xxxxxx082. He also advised OWCP to combine appellant's files in OWCP File Nos. xxxxxx499 and xxxxxx082.

By decision dated December 31, 2013, OWCP denied modification of its April 29, 2013 decision in File No. xxxxxx499.

In a September 10, 2013 report received by OWCP on August 1, 2014, Dr. Salerno, requested approval of a right knee arthroscopic surgery. She noted that appellant has been under her care for pain in the right knee since 1991 when he suffered an injury at work which resulted in a complete tear of his ACL and anterior horn of the lateral meniscus. Appellant had done well for several years and had returned to work, but then began to feel discomfort in his right knee which progressively worsened which made it painful to bear weight, walk or stand for extended periods, and climb up and down the stairs. He was treated with anti-inflammatories which provided some relief, but he continued to experience pain.

On March 13, 2014 Dr. Jaffe performed a right knee arthroscopy. He noted diagnoses of complex tear of the medial meniscus with prior meniscectomy, lateral meniscus markedly displaced and torn complexly, grade 3 to 4 chondromalacia of the lateral femoral compartment and lateral tibial compartment and lateral tibial plateau. Dr. Jaffe also noted that appellant had a large amount of fibrosis in the anterior chamber. Appellant was treated by Dr. Jaffe who then referred him to Dr. Dauhajre for treatment. Dr. Jaffe opined that appellant had an ongoing condition which caused constant medial and lateral joint line pain, recurrent effusions and locking and giving out of the knee. He noted that appellant was in pain while ambulating, squatting, kneeling, and climbing. Dr. Jaffe noted that appellant has been examined by several physicians who agree that an arthroscopy is necessary. He opined that appellant he continued to be disabled.

On OWCP subsequently combined appellant's recurrence claim and his traumatic injury claim, File Nos. xxxxxx499 and xxxxxx082, with the latter serving as the master file.

On December 31, 2013 appellant, through counsel, requested reconsideration of the December 31, 2013 decision in File No. xxxxxx499 and the December 4, 2013 decision in File No. xxxxxx082.

By decision dated August 15, 2014 issued in OWCP File No. xxxxxx499, OWCP determined that the medical evidence of record was of insufficient probative value to alter the December 13, 2013 decision, as it failed to establish causal relationship between the work activity of January 21, 2012 and appellant's medical diagnoses. On August 21, 2014 OWCP reissued the August 15, 2014 decision, but instead noted File No. xxxxx082, which was designated as the master file for both claims.

By letter dated July 26, 2012, received by OWCP on October 6, 2014, Dr. Jaffe stated that appellant was still having problems with both knees, right greater than left. He stated that he treated appellant many years ago. Dr. Jaffe noted that when he examined appellant and repeated

the x-rays, there were only modest degenerative changes, and his examination findings were primarily focused on patellofemoral crepitus right and left with no other instabilities or meniscus findings. However, at this point, with the evidence that appellant had a degenerative condition, he now agreed that appellant had an aggravation of the preexisting condition. Dr. Jaffe noted that appellant had a second injury on January 21, 2012 and noted that the findings suggested an aggravation of the preexisting condition.

On December 11, 2014 appellant, through counsel, appealed to the Board.

By decision dated January 20, 2016, the Board found that the case was not in posture for decision. The Board found that OWCP only addressed appellant's appeal in the new injury claim, despite the fact that appellant also appealed the December 4, 2013 decision involving his recurrence claim. The Board further found that OWCP failed to adequately discuss the facts of the case and failed to provide a detailed analysis of the issues.[5]

On August 10, 2016 OWCP issued a *de novo* decision denying appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to demonstrate that the claimed medical condition was causally related to the accepted work incident.

Appellant subsequently requested reconsideration. In an August 11, 2016 decision, OWCP denied modification of its July 31, 2014 decision. It noted that the new evidence was insufficient to modify its finding that appellant failed to establish a recurrence of disability on January 21, 2012 causally related to the 1991 accepted injury.

On August 15, 2016 appellant, through counsel, requested an oral hearing before an OWCP hearing representative.

During the hearing held on March 2, 2017, appellant noted that he started work for the employing establishment around 1989, and injured his right knee in 1991. He noted that he returned to delivering mail around 2008 and later bid for a driving job to strengthen his knee. Appellant testified that in October 2011 there was a blizzard, and he hit a branch covered with snow, but was not injured. In the beginning of January 2012, he had an accident when he tried to park on a narrow street, but was not injured. Appellant's driver's license was not revoked, but the employing establishment was not happy with the fact that he had two motor vehicle accidents, and told him that he could not drive, so he had to deliver mail while walking. On January 20, 2012 he delivered mail, and the next day there was snow and he developed some problems with his right knee. Appellant noted that he had retired, but he would have continued working if he was not injured.

On February 20, 2017 appellant had an MRI scan of the right knee without contrast. Dr. Daniel Lerer, a Board-certified radiologist, found: (1) severe lateral compartment and patellofemoral compartment degenerative arthritis and moderate-to-severe medial compartment degenerative arthritis, prior partial medial and lateral meniscectomies, medial meniscal tear,

[5] *Id.*

chronic complete ACL tear, chronic ACL sprain, moderate patellar and mild quadriceps tendinosis, and small right knee joint effusion; no fractures or dislocations.

By decision dated April 10, 2017, the hearing representative affirmed the August 11, 2016 decision. She determined that the medical evidence of record did not provide sufficient rationale to support that the January 21, 2012 injury was either a recurrence of the 1991 injury or a new traumatic injury.

LEGAL PRECEDENT -- ISSUE 1

An employee seeking benefits under FECA[6] has the burden of proof to establish the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA, that an injury was sustained in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.[7] These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[8]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the fact of injury has been established. There are two components involved in establishing fact of injury. First, the employee must submit evidence to establish that he or she actually experienced the employment incident at the time, place and manner alleged.[9] Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.[10]

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of the clamant, must be one of reasonable certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.[11]

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[6] *Supra* note 2.

[7] *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[8] *S.P.*, 59 ECAB 184 (2007); *Victor J. Woodhams*, 41 ECAB 345 (1989). A traumatic injury refers to injury caused by a specific event or incident or series of events or incidents occurring within a single workday or work shift whereas an occupational disease refers to an injury produced by employment factors which occur or are present over a period longer than a single workday or work shift. 20 C.F.R. § 10.5(q), (ee), *Brady L. Fowler*, 44 ECAB 343, 351 (1992).

[9] *Julie B. Hawkins*, 38 ECAB 393 (1987).

[10] *John J. Carlone*, 41 ECAB 354 (1989).

[11] *See I.J.*, 59 ECAB 408 (2008); *Donna Faye Cardwell*, 41 ECAB 730 (1990).

ANALYSIS -- ISSUE 1

The Board finds that appellant has not established that he sustained a right knee injury causally related to the accepted January 21, 2012 employment incident.

In support of his claim, appellant submitted reports from Dr. Dauhajre and Dr. Jaffe. Dr. Dauhajre examined appellant on January 30, 2012 and diagnosed internal derangement of the right knee, consistent with a probable tear of the posterior horn of the lateral meniscus and a tear of the posterior horn of the medial meniscus. He also noted aggravation of the appellant's preexistent degenerative joint disease of the right knee, which had been asymptomatic prior to January 21, 2012. Dr. Dauhajre opined within a reasonable degree of medical probability that these conditions were causally related to appellant's duties as a mail carrier. He noted that as a mail carrier his duties required walking and climbing stairs for five to six hours a day. However, in so far as Dr. Dauhajre did not indicate that appellant performed these duties for a short period of time in January 2012, his report is not based upon a correct history.[12]

Dr. Jaffe noted that appellant usually drove to perform his employment duties, but that in January 2012 he was removed from driving and placed on walking delivery, and shortly after this change in appellant's assignment, his right knee became swollen. He stated that as a result of appellant's walking in snow, he aggravated his preexisting right knee condition. The Board finds that the opinions of Dr. Dauhajre or Dr. Jaffe are not persuasive. Dr. Dauhajre and Dr. Jaffe did not explain how appellant's job duties of delivering mail for a few hours on January 21, 2012 caused or aggravated the diagnosed conditions. Without explaining how physiologically appellant's accepted employment incident caused or contributed to his diagnosed right knee conditions, their opinions are of limited probative value.[13] Furthermore, the Board has held that the mere fact that appellant's symptoms arose during a period of employment or produced symptoms revelatory of an underlying condition does not establish causal relationship between his condition and the employment factors.[14]

Dr. Salerno requested that OWCP approve appellant's right knee arthroscopic surgery. She noted that he had been under her care since 1991 when he suffered an injury at work. Dr. Salerno noted that appellant returned to work and was doing well for several years and then began to feel discomfort in the right knee. She indicated that an MRI scan of March 8, 2012 revealed a tear of the body and posterior horn of the lateral meniscus, small joint effusion with slight complex fluid, a tear of the posterior horn of the medial meniscus adjacent to the medial meniscal root, and probable meniscal ossicle. Dr. Salerno did not provide an opinion causally relating appellant's condition to his accepted employment incident of January 21, 2012. Medical evidence which does

[12] *Id.*

[13] *See K.K.*, Docket No. 17-1061 (issued July 25, 2018).

[14] *See Richard B. Cissel*, 32 ECAB 1910, 1917 (1981); *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979); *see also R.C.*, Docket No. 17-0372 (issued May 3, 2018).

not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.[15]

The remaining evidence of record includes a March 8, 2012 MRI scan report of appellant's right knee, and a February 6, 2012 x-ray report. The record also contains a pre January 21, 2012 diagnostic study, *i.e.*, a June 7, 1991 MRI scan of appellant's right knee. The Board has held that diagnostic studies are of limited probative value as they do not address whether the cause of the diagnosed conditions.[16]

Thus the Board finds that appellant failed to meet his burden of proof to establish that he sustained a right knee injury on January 21, 2012 causally related to the accepted employment incident.

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.

LEGAL PRECEDENT -- ISSUE 2

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

Where an employee claims a recurrence of disability due to an accepted employment-related injury, he or she has the burden of proof to establish that the recurrence is causally related to the original injury.[17] This burden includes the necessity of furnishing evidence from a qualified physician who concludes that the condition is causally related to the employment injury.[18] The physician's opinion must be based on a complete and accurate factual and medical history and supported by sound medical reasoning.[19]

ANALYSIS -- ISSUE 2

The Board finds appellant has not met his burden of proof to establish a recurrence of disability on or after January 21, 2012 causally related to his accepted May 23, 1991 employment injury.

None of the physicians of record attributed appellant's diagnosed conditions to a spontaneous change in medical condition which resulted from the previous injury or illness without

[15] *B.P.*, Docket No. 17-0753 (issued July 10, 2018).

[16] *See C.L.*, Docket No. 17-0354 (issued July 10, 2018); *J.S.*, Docket No. 17-1039 (issued October 6, 2017).

[17] 20 C.F.R. § 10.104(b); *see* Federal (FECA) Procedure Manual, at Chapter 2.1500.5 and 2.1500.6 (June 2013).

[18] *See S.S.*, 59 ECAB 315, 318-19 (2008).

[19] *Id.* at 319.

an intervening injury or new exposure to the work environment.[20] Both Dr. Dauhajre and Dr. Jaffe inferred that appellant's condition was related to his federal employment delivering mail on January 20 and 21, 2012. These opinions were not sufficiently well rationalized to establish that appellant had a traumatic injury causally related his employment on January 21, 2012. However, neither Dr. Dauhajre nor Dr. Jaffe indicated that appellant's right knee conditions, first diagnosed in January 2012, were a spontaneous recurrence of the right knee sprain he sustained on May 23, 1991. Dr. Dauhajre made several diagnoses with regard to appellant's right knee, including internal derangement of the right knee and aggravation of appellant's preexisting degenerative disease. It is appellant's burden of proof to establish that newly diagnosed conditions are employment related.[21] The Board notes that appellant has explained that he did not seek medical treatment for his right knee condition between 1991, 1992, and 2012. Therefore there was a 20-year gap in appellant's medical treatment from 1992 to 2012. The medical evidence of record therefore does not include bridging evidence to show a spontaneous worsening of the accepted conditions, or that the newly diagnosed conditions occurred over time as a result of the May 23, 1991 employment-related right knee injury.[22] The Board therefore finds that appellant has not met his burden of proof.[23]

On appeal counsel notes that Dr. Jaffe predicted that appellant would develop osteoarthritis in the future. He also contended that Dr. Jaffe's report of January 7, 2013 indicated that it was common knowledge that an ACL injury will lead to early degeneration and post traumatic arthritis. Speculation as to what will happen in the future is not sufficient to establish a claim. An award of compensation may not be based on surmise, conjecture, speculation, or the employee's own belief of causal relationship.[24]

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that he sustained a right knee injury causally related to the accepted January 21, 2012 employment incident. The Board further finds that appellant has not established a recurrence of disability on January 21, 2012 causally related to his accepted May 23, 1991 employment injury.

[20] *W.H.*, Docket No. 17-1390 (issued April 23, 2018).

[21] *See R.W.*, Docket No. 17-0775 (issued July 25, 2018).

[22] *See M.M.*, Docket No. 16-1851 (issued January 19, 2018).

[23] *H.T.*, Docket No. 17-0209 (issued February 8, 2018).

[24] *L.D.*, Docket No. 17-1407 (issued January 19, 2018).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 10, 2017 is affirmed.

Issued: September 19, 2018
Washington, DC

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

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

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