

ISSUE

The issue is whether appellant has met his burden of proof to establish recurrences of disability commencing April 1 and May 13, 2019 causally related to the accepted June 2, 2014 employment injury.

FACTUAL HISTORY

On June 2, 2014 appellant, then a 45-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on June 2, 2014 his left knee gave out as he stepped out of his long life vehicle (LLV) onto a sloped shoulder. He stopped work on June 3, 2014. On July 9, 2014 OWCP accepted appellant's claim for a closed fracture of the left femoral condyle. It paid him intermittent disability on the supplemental rolls beginning July 18, 2014 through January 10, 2015 and on the periodic rolls from September 21 through October 18, 2014. On November 13, 2014 he accepted a light-duty assignment as a modified rural carrier.

In an April 8, 2019 statement, appellant alleged that in March 2019 he began to experience soreness in his left knee. He indicated that his pain had worsened and contended that, because there was no specific event that caused the recent increase in pain, he believed that his 2014 knee repair following his 2014 employment injury had worn out.

On April 11, 2019 appellant filed a notice of recurrence (Form CA-2a) alleging a recurrence of disability from work commencing April 1, 2019. He explained that he had been on light-duty assignment and had gradually worked his way back to full duty. Over the past few weeks, appellant indicated that his left knee had become sore. He again contended that he had not done anything to cause the increase in pain and that it was caused by wear and tear of his previous June 2, 2014 employment injury. Appellant also noted that, in between the time of his original injury and the time he returned to work, he had experienced back problems that caused him to miss work, as well as having had surgery on "both carpal tunnels."³ He stopped work on April 10, 2019. Appellant returned to work on April 12, 2019.

In an April 22, 2019 development letter, OWCP advised appellant of the deficiencies of his recurrence claim and informed him of the type of factual and medical evidence needed. It provided a questionnaire for his completion. OWCP afforded appellant 30 days to submit the requested evidence.

Appellant submitted an April 10, 2019 medical report in which Dr. Gorczynski noted his previous treatment of appellant in relation to his June 2, 2014 left knee employment injury. He informed him that he had experienced no new traumas to his knee and that his pain began in March 2019. Dr. Gorczynski reviewed an x-ray scan of the left knee, which found no evidence of a fracture and minimal degenerative changes and diagnosed left knee pain and effusion, left knee.

³ Appellant has a previously accepted July 1, 2003 traumatic injury claim for a cervical strain/sprain under OWCP File No. xxxxxx868. He also has a previously accepted January 6, 2005 traumatic injury claim for a cervical sprain/strain, a lumbosacral sprain/strain, a contusion of the right shoulder and a contusion of the right elbow under OWCP File No. xxxxxx045. Appellant's claims have not been administratively combined.

In an April 19, 2019 diagnostic report, Dr. Michael Cooley, a Board-certified radiologist, conducted a magnetic resonance imaging (MRI) scan of appellant's left knee, finding a nearly detached chondral flap from the weight bearing surface of the medial femoral condyle, a degenerated and torn posterior horn and posterior root of the medial meniscus and irregular full-thickness cartilage loss along the far medial aspect of the medial tibial plateau.

In a May 13, 2019 medical report, Dr. Gorczynski noted that appellant had returned to work and that the pain in his left knee had worsened. Upon review of the April 19, 2019 MRI scan, he discussed treatment options for appellant's left knee osteoarthritis. Dr. Gorczynski advised that appellant undergo left knee replacement surgery to treat his condition. In a medical note of even date, he found that he was unable to work due to his April 1, 2019 left knee injury.

In a May 14, 2019 response to OWCP's development questionnaire, appellant asserted that on April 1, 2019 he noticed significant pain in his left knee every time he got out of his LLV. Since that day, it had been difficult for him to tolerate his knee pain while walking on uneven ground and on stairs to the point where it had worsened and his physician suggested he undergo knee replacement surgery. Appellant indicated that he had undergone annual physical examinations over the past five years and had no knee issues until April 1, 2019.

By decision dated June 24, 2019, OWCP denied appellant's claim for a recurrence of disability commencing April 1, 2019, finding that he had not established that he was disabled from work due to a material change or worsening of his accepted condition. It noted that he had not provided a report from his treating physician that explained how his condition spontaneously worsened on April 1, 2019 and rendered him disabled from work on April 10, 2019.

On May 22, 2020 Form CA-2a appellant alleged a recurrence of disability from work commencing May 13, 2019. Appellant reported that he had been unable to deliver packages for the past six months and that he had experienced limited strength, stability, and motion, as well as pain and swelling, in his left knee. He stopped work on May 13, 2019.

On June 1, 2020 appellant, through counsel, requested reconsideration of OWCP's June 24, 2019 decision.

In support of his request for reconsideration, appellant submitted a January 27, 2020 return-to-work certificate from Dr. Gorczynski who released appellant to return to work full duty on February 3, 2020.

In a February 2, 2020 narrative medical report, Dr. Gorczynski reviewed the history of appellant's June 2, 2014 left knee employment injury and his subsequent medical treatment, including the August 18, 2014 left knee arthroscopic procedure performed by Dr. DiGiovanni. He noted that appellant followed up on April 10, 2019 where he denied any new left knee injury, but noted an increase in pain. On evaluation Dr. Gorczynski observed moderate left knee effusion, medial joint line tenderness and a positive medial McMurray test. On review of April 19, 2019 MRI scans of his left knee, he recommended that appellant undergo knee replacement surgery and held him off of work on 100 percent temporary disability. Dr. Gorczynski performed total left knee replacement surgery on October 1, 2019. On January 27, 2020 appellant reported minimal pain after completing physical therapy and was cleared by Dr. Gorczynski to attempt to return to

work at regular duty. Based on a review of his medical records, Dr. Gorczynski opined that it was clear that his June 2, 2014 employment injury was the proximate cause of subchondral fracture and overlying articular damage that required him to undergo surgery on August 18, 2014. He explained that the injury resulted in post-traumatic arthritis and that, although he recovered from his initial injury, appellant's subsequent clinical deterioration and eventual need for a total left knee replacement was an expected consequence of the damage that originally occurred on June 2, 2014. Dr. Gorczynski concluded that appellant was unable to work from May 13, 2019 to January 27, 2020 as a direct result of his June 2, 2014 left knee injury.

In a June 8, 2020 development letter, OWCP informed appellant of the deficiencies of his claim for a recurrence of disability commencing May 13, 2019. It advised him of the type of factual and medical evidence needed and provided a questionnaire for his completion. OWCP afforded appellant 30 days to submit the necessary evidence.

By decision dated June 11, 2020, OWCP denied modification of its June 24, 2019 decision denying appellant's claim for a recurrence of disability commencing April 1, 2019.

In a June 25, 2020 response to OWCP's June 8, 2020 development letter, appellant asserted that he had experienced an increase in symptoms related to his accepted injury that prevented him from performing his employment duties. He contended that the medical evidence of record would explain that his disability was related to his June 2, 2014 employment injury.

By decision dated August 5, 2020, OWCP denied appellant's claim for a recurrence of disability, commencing May 13, 2019, finding that he had not established that he was disabled from work due to a material change or worsening of his accepted condition. It explained that he had not provided a report from his treating physician that explained how his condition spontaneously worsened and rendered him disabled from work beginning May 13, 2019.

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 has resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.⁴ This term also means an inability to work that takes place when a light-duty assignment made specifically to accommodate an employee's physical limitations due to his or her work-related injury or illness is withdrawn (except when such withdrawal occurs for reasons of misconduct, nonperformance of job duties, or a reduction-in-force) or when the physical requirements of such an assignment are altered so that they exceed the established physical limitations.⁵

When an employee who is disabled from the job he or she held when injured on account of employment-related residuals returns to a limited-duty position or the medical evidence of record establish that he or she can perform the limited-duty position, the employee has the burden

⁴ 20 C.F.R. § 10.5(x); S.W., Docket No. 18-1489 (issued June 25, 2019).

⁵ *Id.*

of proof to establish by the weight of the reliable, probative, and substantial evidence a recurrence of total disability and to show that he or she cannot perform such limited-duty work. As part of this burden, the employee must show a change in the nature and extent of the injury-related condition or a change in the nature and extent of the limited-duty job requirements.⁶ This burden includes the necessity of furnishing evidence from a qualified physician who concludes, on the basis of a complete and accurate factual and medical history, that for each period of disability claimed, the disabling condition is causally related to the employment injury, and supports that conclusion with medical reasoning. When no such rationale is present, the medical evidence is of diminished probative value.⁷

For each period of disability claimed, the employee has the burden of proof to establish that he or she was disabled from work as a result of the accepted employment injury.⁸ The Board will not require OWCP to pay compensation for disability in the absence of medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow an employee to self-certify their disability and entitlement to compensation.⁹

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish recurrences of disability from work commencing April 1 and May 13, 2019 causally related to the accepted June 2, 2014 employment injury.

In support of his recurrence claims, appellant submitted a February 2, 2020 narrative medical report in which Dr. Gorczynski reviewed the history of appellant's treatment for his June 2, 2014 left knee employment injury and his subsequent August 18, 2014 surgical procedure to treat his diagnosed closed fracture of the femoral condyle, left. Dr. Gorczynski noted that appellant returned to his office on April 10, 2019 where he complained of an increase of his left knee pain and denied any new traumatic injury to his knee. He observed moderate left knee effusion, medial joint line tenderness and a positive medial McMurray and subsequently performed a total left knee replacement surgical procedure on October 1, 2019 to treat appellant's left knee condition. Based on a review of appellant's medical records, Dr. Gorczynski opined that it was clear that his June 2, 2014 employment injury was the proximate cause of subchondral fracture and overlying articular damage that required him to undergo surgery on August 18, 2014. He explained that the injury resulted in post-traumatic arthritis and that, although he recovered from his initial injury, appellant's subsequent clinical deterioration and eventual need for a total left knee replacement was an expected consequence of the damage that originally occurred on June 2, 2014. Dr. Gorczynski concluded that appellant's inability to work from May 13, 2019 to January 27, 2020 was a direct result of his June 2, 2014 left knee injury.

⁶ *H.T.*, Docket No. 17-0209 (issued February 8, 2019); *Ronald A. Eldridge*, 53 ECAB 218 (2001).

⁷ *E.M.*, Docket No. 19-0251 (issued May 16, 2019); *Mary A. Ceglia*, Docket No. 04-0113 (issued July 22, 2004).

⁸ *See B.D.*, Docket No. 18-0426 (issued July 17, 2019); *Amelia S. Jefferson*, 57 ECAB 183 (2005).

⁹ *Id.*, *Fereideoon Kharabi*, 52 ECAB 291 (2001).

Although he provided an opinion regarding disability, Dr. Gorczynski's report is insufficiently rationalized to establish causal relationship between appellant's periods of disability and his accepted June 2, 2014 left knee injury. He did not provide an explanation, supported by objective medical evidence that appellant's accepted condition had suddenly worsened to the extent that he could no longer perform the duties of his position.¹⁰ The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how a given medical condition/disability was related to employment factors.¹¹ As such, Dr. Gorczynski's February 2, 2020 narrative medical report is insufficient to establish appellant's recurrence claims.

Appellant also provided medical reports dated April 10 and May 13, 2019 in which Dr. Gorczynski noted that, despite not experiencing any new traumas to his left knee, appellant experienced an increase in left knee pain on April 1 and May 13, 2019, respectively. In his May 13, 2019 medical report, Dr. Gorczynski indicated that appellant's left knee continued to worsen and found that appellant would be unable to work due to his April 1, 2019 left knee injury. As previously noted, a medical report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how a given medical condition/disability was related to employment factors.¹² Further, the Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's disability is of no probative value on the issue of causal relationship.¹³ Therefore, these reports are also insufficient to establish appellant's recurrence of disability claims.

Appellant also submitted an April 19, 2019 diagnostic report in which Dr. Cooley performed an MRI scan of his left knee. The Board has held, however, that diagnostic studies, standing alone, lack probative value on the issue of causal relationship as they do not address whether the accepted employment injuries resulted in appellant's period of disability on specific dates.¹⁴

As appellant has not submitted medical evidence establishing recurrences of disability commencing April 1 and May 13, 2019, causally related to his accepted employment injury, 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(a) and 20 C.F.R. §§ 10.605 through 10.607.

¹⁰ *R.L.*, Docket No. 19-0444 (issued July 29, 2019); *J.L.*, Docket No. 15-1951 (issued May 16, 2016).

¹¹ *See Y.D.*, Docket No. 16-1896 (issued February 10, 2017) (finding that a report is of limited probative value regarding causal relationship if it does not contain medical rationale describing the relation between work factors and a diagnosed condition/disability). *See also J.M.*, Docket No. 16-0306 (issued May 5, 2016).

¹² *Id.*

¹³ *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁴ *O.C.*, Docket No. 20-0514 (issued October 8, 2020); *R.J.*, Docket No. 19-0179 (issued May 26, 2020).

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish recurrences of disability from work commencing April 1 and May 13, 2019 causally related to the accepted June 2, 2014 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the June 11 and August 5, 2020 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: October 26, 2021
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board