

She stopped work on October 27, 2016. OWCP accepted the claim for left knee sprain. It subsequently expanded the acceptance to include lower back muscle, fascia and tendon strain, and left knee traumatic arthropathy. Appellant returned to work four hours per day with restrictions on November 18, 2016. She stopped work on November 6, 2017. OWCP authorized left knee arthroscopic surgery, which was performed on June 7, 2018. It paid appellant wage-loss compensation on the supplemental rolls June 7 through July 21, 2018, on the periodic rolls July 22, 2018 through January 30, 2021, and again on the supplemental rolls as of February 7, 2021. Appellant returned to full-time modified-duty work on February 8, 2021. The physical duties of the modified assignment were noted as sedentary work only, no walking.

OWCP received a July 8, 2021 report, wherein Dr. Robert Douglas Bostick, a Board-certified orthopedic surgeon and sports medicine physician, diagnosed left knee contusion, left knee patellofemoral pain syndrome, left knee synovitis, lumbar radiculopathy, and left knee pain. On examination, Dr. Bostick reported that appellant had left knee swelling, some warmth, no erythema, stable ligamentous examination, some patellofemoral articulation crepitus, and global tenderness in the medial and lateral joint lines and retropatellar tissues. He related that her knee swelling had become so severe that she had to stop work.

In a duty status report (Form CA-17) dated July 8, 2021, Dr. Bostick advised that appellant was unable to work. He diagnosed left knee strain, which he attributed to the October 25, 2016 employment injury.

On August 18, 2021 appellant filed a Form CA-7 claiming wage-loss compensation for the period July 14 to August 16, 2021. In Form CA-7a of even date, she claimed 192.00 hours for the period July 15 to August 16, 2021.

In a development letter dated August 23, 2021, OWCP informed appellant of the deficiencies of her claim for compensation. It advised her of the type of medical evidence required and provided her 30 days to submit the necessary evidence.

OWCP subsequently received a September 14, 2021 report, wherein Dr. Bostick advised that appellant had been placed off work due to her employment injury. Dr. Bostick opined that appellant was disabled from work due to her increased pain and knee swelling. He explained that her job required standing and walking for extended periods of time, which is why he found her disabled from work at the last appointment.

By decision dated October 5, 2021, OWCP denied appellant's claim for disability for the period July 14 through August 16, 2021.

Subsequently, OWCP received a September 23, 2021 progress report from Dr. Bostick. Dr. Bostick noted that appellant continued having ongoing swelling and some sciatic-type symptoms in her left leg. He opined that she was disabled from work due to her inability to stand or walk for any significant period of time and due to her significant pain at night. Physical examination findings of appellant's left leg included slight antalgic gait, no erythema or warmth, some sciatic-type symptoms, no mechanical findings, and generalized pain with left knee range of motion. Dr. Bostick diagnosed left knee contusion, transient synovitis, patellofemoral pain syndrome and pain and lumbar radiculopathy.

Appellant continued to file Form CA-7 claims.

In a November 30, 2021 development letter, OWCP informed appellant of the definition of a recurrence and advised appellant of the deficiencies of her claim. It requested that she submit additional factual and medical evidence supporting her claim for total disability beginning July 14, 2021. OWCP further provided appellant with a questionnaire for completion and requested a report from her physician addressing the relationship between her claimed disability and her employment injury. It afforded her 30 days to submit the necessary evidence.

OWCP subsequently received a November 30, 2021 report, wherein Dr. Bostick, noted appellant's history of injury, reviewed diagnostic studies, and provided examination findings. Dr. Bostick diagnosed lumbar radiculopathy and left knee patellofemoral pain syndrome, contusion, and synovitis.

In a December 13, 2021 report, Dr. Bostick again noted appellant's history of injury and medical treatment and provided her physical examination findings. He reported that she had persistent, ongoing left knee pain and retropatellar tissue swelling. Dr. Bostick diagnosed left knee pain, contusion, and synovitis. He also concluded that appellant likely developed, based on her symptoms, inflammatory arthropathy. Dr. Bostick held her off work pending updated diagnostic testing results. He found appellant unable to perform prolonged walking or standing, or repetitive bending, squatting, stooping, or climbing.

Appellant continued to file Form CA-7 claims.

By decision dated January 13, 2022, OWCP denied appellant's recurrence claim, finding that she did not establish disability due to a material change or worsening of her accepted employment-related conditions.

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 resulted from a previous compensable injury or illness and without an intervening injury or new exposure in the work environment.² This term also means an inability to work when a light-duty assignment, made specifically to accommodate an employee's physical limitations due to work-related injury or illness, is withdrawn or altered so that the assignment exceeds the employee's physical limitations. A recurrence does not occur when such withdrawal occurs for reasons of misconduct, nonperformance of job duties, or a reduction-in-force.³

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 establishes that he or she can perform the limited-duty position, the employee has the burden of proof to establish by the weight of the reliable, probative, and substantial evidence a recurrence

² 20 C.F.R. § 10.5(x); *T.J.*, Docket No. 18-0831 (issued March 23, 2020).

³ *Id.*

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.⁴ 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.⁵ Where no such rationale is present, the medical evidence is of diminished probative value.⁶

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a recurrence of disability commencing July 14, 2021, causally related to her accepted October 25, 2016 employment injury.

First, the Board notes that appellant has not alleged, and the evidence does not establish, a change in the nature and extent of appellant's light-duty work requirements. Additionally, there is no indication in the record that the employing establishment withdrew a light-duty assignment. The remaining issue is whether the medical evidence is sufficient to establish a worsening of appellant's accepted left knee conditions such that she could not perform her limited-duty work.

Appellant submitted a series of reports from Dr. Bostick. In his July 8, 2021 report, Dr. Bostick held her off work due to severe swelling of her left knee. In his September 14 and 23, 2021 reports, and in his progress reports through December 13, 2021, he reiterated that appellant was disabled from work due to her increased pain and knee swelling. Dr. Bostick explained that her job required standing and walking for extended periods of time, which is why he found her disabled from work. He related that appellant was unable to return to work due to her left knee swelling as her job required standing and walking for extended periods of time. However, the modified position appellant accepted as of February 8, 2021 was a strictly sedentary position that did not include walking. The Board, therefore, finds that Dr. Bostick did not provide sufficient medical rationale supporting worsening of the accepted beginning July 14, 2021 such that appellant could no longer perform her modified-duty sedentary position. Dr. Bostick's reports, therefore, do not contain a rationalized medical opinion explaining how appellant's accepted employment conditions caused total disability during the claimed period.⁷ As such, these reports are of diminished probative value and are insufficient to establish the recurrence claim.

⁴ *T.B.*, Docket No. 20-0255 (issued March 11, 2022); *S.D.*, Docket No. 19-0955 (issued February 3, 2020); *Terry R. Hedman*, 38 ECAB 222 (1986).

⁵ *T.B., id.*; *J.M.*, Docket No. 19-1517 (issued January 29, 2020); *Ronald A. Eldridge*, 53 ECAB 218 (2001); *Mary A. Ceglia*, Docket No. 04-0113 (issued July 22, 2004).

⁶ *Id.*

⁷ *See N.M.*, Docket No. 18-1584 (issued March 15, 2019).

As the medical evidence of record is insufficient to establish a worsening of appellant's accepted left knee conditions such that she could not perform her limited-duty work, the Board finds that she has not met her 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.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a recurrence of disability commencing July 14, 2021, causally related to her accepted October 25, 2016 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the January 13, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 14, 2022
Washington, DC

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

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

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