U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LULA M. LEE and DEPARTMENT OF VETERANS AFFAIRS, VETERANS ADMINISTRATION MEDICAL CENTER, Milwaukee, WI

Docket No. 03-1061; Submitted on the Record;
Issued September 26, 2003

DECISION and ORDER

Before ALEC J. KOROMILAS, COLLEEN DUFFY KIKO, DAVID S. GERSON

The issue is whether appellant met her burden of proof in establishing that she sustained a left knee condition and meningioma at T8 causally related to the accepted injury of September 8, 2000.

On September 20, 2000 appellant, then a 58-year-old program support assistant, filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-1), alleging that on September 8, 2000 she slipped and fell in a pool of water caused by a leaking water fountain in the employing establishment hallway. Appellant stopped work on September 8, 2000 and did not return. By letter dated November 17, 2000, the Office of Workers' Compensation Programs accepted that appellant sustained an employment-related right medial meniscus tear and approved right knee arthroscopy on October 15, 2001. The alleged condition was expanded to include a temporary aggravation of the L5 lumbar radiculopathy.

In reports dated September 13 and 20, 2000, Dr. Harvey W. Wichman, a Board-certified orthopedist, indicated that appellant was treated for right knee pain, which occurred since the September 8, 2000 work injury where appellant fell at work sustaining trauma to both knees. In his September 20, 2000 report, Dr. Wichman noted tenderness to the left knee suggestive of post-traumatic prepatellar bursa. In his September 20, 2000 report, he noted tenderness to the left knee suggestive of post-traumatic prepatellar bursa. In a report dated July 19, 2001, Dr. James E. Stoll, a Board-certified orthopedist, noted a history of appellant's work-related injury on September 8, 2000. Dr. Stoll indicated that appellant had progressive symptoms of right knee pain and bilateral lower extremity numbness and dysfunction. He diagnosed appellant with low back pain and neurologic abnormality of unknown etiology. By report dated July 31, 2001, Dr. Stoll diagnosed left and right sided radiculopathy and advised that appellant's fall directly contributed to her current medical condition. He noted that appellant's knee was also injured in the fall, however, deferred to Dr. David D. Mellencamp, a Board-certified orthopedist, to address that condition.

The magnetic resonance imaging (MRI) scan of the left knee dated November 27, 2001, revealed a horizontal tear involving the very peripheral inferior aspect of the body of the medial meniscus. In a report dated December 13, 2001, Dr. Stoll advised that appellant had developed an acute left knee pain with swelling of the left lower extremity, which was most likely due to an internal derangement of the knee or a ruptured Baker's cyst. By report dated February 18, 2002, Dr. Mellencamp,[1] advised that appellant's left knee symptoms were to a great extent secondary to her preexisting degenerative condition in both knees. In a report dated March 8, 2002, Dr. Steven J. Kaplan, a Board-certified orthopedist, noted that appellant injured her left knee in September 2000, when she fell at work and had experienced left knee swelling in November 2001. Dr. Kaplan diagnosed osteoarthritis involving the medial aspect of her left knee with a degenerative-type tear of the meniscus.

In clinic notes dated June 6 and July 17, 2002, appellant was treated for chronic low back pain and left knee pain and the physician advised that appellant ambulated with a walker. By report dated August 6, 2002, Dr. Alexandru Barboi, a Board-certified neurologist, noted that appellant had significant cervical spondylosis and a thoracic tumor, both of which contributed to her myelopathy with weakness of her legs. Dr. Barboi noted that it is very likely that, after appellant's falls, either or both of these problems got worse and resulted in her leg weakness. In reports dated August 19 and 22, 2002, Dr. Glenn A. Meyer noted a history of appellant's work-related injury indicating that her symptoms of weakness in her legs on the left side precipitated her fall on September 8, 2000 and that appellant sustained several additional falls in recent months. Dr. Meyer diagnosed meningioma at the T8 level toward the left side of the spinal canal with severe cord compression. Surgery to remove the meningioma was scheduled for August 27, 2002. In a disability slip dated September 6, 2002, Dr. Meyer advised that appellant could return to work on November 25, 2002 with a five-pound lifting restriction. The MRI scan of the left knee dated September 19, 2002 revealed medial and lateral meniscus tear with tricompartmental osteoarthritis. In a report dated October 18, 2002, Dr. Mellencamp advised after review of the medical records, that he did not believe the degenerative changes found in appellant's left knee were related to the work injury of September 8, 2000. He opined that "most likely none of the complaints are work related as they all seemed to have preceded her problems."

In a decision dated December 5, 2002, the Office denied appellant's claim, finding that the evidence submitted was insufficient to establish that the left knee condition and meningioma at T8 were caused by the September 8, 2000 work injury.

The Board finds that appellant has failed to establish that she sustained a left knee condition and meningioma condition at T8 causally related to the accepted injury of September 8, 2000.

Appellant has the burden of establishing by the weight of reliable, probative and substantial evidence that the period of claimed disability was caused or adversely affected by the employment injury. As part of this burden, she must submit rationalized medical opinion evidence based on a complete factual and medical background showing a causal relationship

[1] Dr. Mellencamp had treated appellant's right knee and performed arthroscopy on August 31, 2001.

between her disability and the federal employment. The fact that the condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.[2]

Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.[3] Rationalized medical evidence is medical evidence, which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete, factual and medical background of the claimant, must be one of reasonable medical 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.[4] Neither the mere fact that a disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.[5]

In this case, the Office accepted appellant's claim for aggravation of a preexisting right knee meniscus tear; and a temporary aggravation of the L5 lumbar radiculopathy. However, the medical evidence is insufficient to establish that the employment incident on September 8, 2000 caused an injury to her left knee or the meningioma of the thoracic spine.

The most contemporaneous medical evidence indicated that appellant sought treatment for her right knee and back, rather than the left knee and the Board has consistently held contemporaneous evidence is entitled to greater probative value than later evidence.[6] In treatment notes dated September 20 to 29, 2000, Dr. Wichman indicated that appellant was treated primarily for right knee pain and back pain, which occurred since the September 8, 2000 work injury. He noted that appellant had a preexisting posterior horn tear of the right medial meniscus. Although Dr. Wichman noted appellant's complaints of bilateral knee pain and indicated this was suggestive of post-traumatic prepatellar bursa, he did not provide a specific and rationalized opinion as to the causal relationship between appellant's employment and her left knee condition. The treatment notes from Dr. Mellencamp closest in time to the date of the work-related injury indicated that appellant was treated for a right knee injury occurring on September 8, 2000. He continued to submit reports dated January 5 to December 4, 2001, regarding follow-up for appellant's right knee and back pain but did not indicate that appellant was treated for a left knee injury or a thoracic condition. Finally, in a report dated October 18, 2002, Dr. Mellencamp advised that appellant's "left knee symptoms and her present symptoms to a great extent are simply secondary to her preexisting degenerative symptoms in both knees." Dr. Mellencamp's reports are, therefore, insufficient to establish that appellant's left knee condition or thoracic meningioma were caused by the September 8, 2000 fall.

[2] *See Nicolea Bruso*, 33 ECAB 1138 (1982).

[3] *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

[4] *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

[5] *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

[6] *See Katherine A. Williamson*, 33 ECAB 1696 (1982); *Arthur N. Meyers*, 23 ECAB 111 (1971).

In reports dated July 19 to 31, 2001, Dr. Stoll noted appellant's progressive symptoms of right knee pain and bilateral lower extremity numbness and dysfunction. He diagnosed low back pain and neurologic abnormality of unknown etiology and opined that appellant's fall directly contributed to her current medical condition. Although Dr. Stoll provided a vague and conclusory statement, which somewhat supports causal relationship, he provided no medical reasoning or rationale to support this conclusion and the Board has found that vague and unrationalized medical opinions on causal relationship have little probative value.[7] While Dr. Stoll reported on December 13, 2001 that appellant had developed acute left knee pain with swelling of the left lower extremity, which he opined was due to an internal derangement of the knee or a ruptured Baker's cyst, he neither provided a definitive diagnosis of appellant's condition nor provided a well-reasoned discussion explaining if and how, an internal derangement of the left knee or a ruptured Baker's cyst, was a result of the incident of September 8, 2000. Without any explanation or rationale for the conclusion reached, this is insufficient to meet appellant's burden of proof.[8]

In a report dated March 8, 2000, Dr. Kaplan noted that appellant injured her left knee in September 2000, when she fell at work and had experienced left knee swelling in November 2001. He diagnosed osteoarthritis involving the medial aspect of her left knee with a degenerative-type tear of the meniscus. Dr. Kaplan, however, did not provide an opinion as to the cause of appellant's left knee condition.

By report dated August 6, 2002, Dr. Barboi diagnosed cervical spondylosis and a thoracic tumor and advised that is was very likely that "her falls" exacerbated either or both of these conditions. Dr. Barboi merely provided speculative support that the September 8, 2000 fall caused appellant's condition. The Board notes that medical opinions, which are speculative or equivocal in character have little probative value.[9]

In reports dated August 19 and 22, 2002, Dr. Meyer noted a history of appellant's work-related injury but that her symptoms of leg weakness on the left side precipitated her fall on September 8, 2000. He noted that appellant sustained several additional falls in recent months. The Board finds this report vague and, therefore, of decreased probative value.[10] Dr. Meyer also diagnosed a meningioma at the T8 level toward the left side of the spinal canal with severe cord compression and recommended surgery, but did not provide an opinion regarding the cause of this condition.

Therefore, the Board finds that, as the record does not contain rationalized medical evidence that relates appellant's left knee condition or the thoracic meningioma to the

[7] *See Theron J. Barham*, 34 ECAB 1070 (1983).

[8] *Lucrecia M. Nielson*, 41 ECAB 583, 594 (1991).

[9] *Leonard O'Keefe*, 14 ECAB 42 (1962).

[10] *See Theron J. Barham*, *supra* note 7.

September 8, 2000 employment injury, she has not established that these conditions were employment related.[11]

The decision of the Office of Workers' Compensation Programs dated December 5, 2002 is hereby affirmed.

Dated, Washington, DC
September 26, 2003

Alec J. Koromilas
Chairman

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

[11] The Board notes that appellant submitted medical evidence subsequent to the issuance of the December 5, 2002 Office decision and with her appeal to the Board. The Board cannot consider this evidence, however, as its review of the case is limited to the evidence of record, which was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c).