

accepted the claim for left knee sprain under claim number 16-345193. Appellant was released to limited-duty work effective January 4, 2000.¹

On January 29, 2003 appellant filed a claim alleging that she sustained a recurrence of disability beginning January 19, 2003 due to her accepted November 29, 1999 employment injury. She stated that at the time of the alleged recurrence of disability she was performing light-duty work. The employing establishment controverted the recurrence claim on the grounds that appellant had not worked since June 2002 due to an injury under claim number 16-2038319 for a right hand injury.

In progress notes dated June 12, 2003, appellant complained of left knee swelling and pain and noted it felt warm/hot to the touch since January 19, 2003. Diagnoses included left knee internal derangement and synovitis and possible left knee torn medial meniscus and/or degeneration.

In a letter dated June 13, 2003, the Office advised appellant of the additional medical and factual evidence needed to establish her claim for a recurrence of disability. It noted that the record showed she returned to a limited-duty job on January 2, 2000. The Office emphasized the need to submit a rationalized report from her attending physician explaining how and why the accepted injuries would disable her for her limited-duty work for the claimed period.

On July 7, 2003 Dr. Charles K. Speller, an attending physician, noted that appellant has had problems with her left knee since she injured it at work on November 29, 1999. He opined that appellant has been totally disabled since June 6, 2002. Dr. Speller diagnosed left medial meniscus tear with central displaced fragment and possible stressed-related bruised bone. A physical examination revealed mild left knee effusion, abnormal gait, left knee crepitus on extension and flexion, pain upon percussion and palpation of the *pes aserinous* and medial joint line and "pain on varus and valgus stress manifested more about the medial joint line." Dr. Speller noted a June 26, 2003 magnetic resonance imaging (MRI) scan confirmed the diagnoses and that appellant was currently totally disabled from working at this time.

On August 12, 2003 the Office received additional factual and medical evidence from appellant. In a February 13, 2003 memorandum, appellant requested leave for the period February 13 to May 9, 2003 due to a personal illness under the Family and Medical Leave Act. In a June 12, 2003 attending physician's report, (Form CA-20) Dr. Speller diagnosed internal derangement and opined that appellant was totally disabled for the period January 19, 2003 to January 19, 2004. He checked "yes" to the question of whether the condition was employment related. On June 12, 2003 appellant filed a claim for compensation (Form CA-7) requesting wage-loss compensation for the period January 19, 2003 to January 19, 2004.

By decision dated August 26, 2003, the Office denied appellant's recurrence claim beginning January 19, 2003 due to her accepted November 29, 1999 employment injury.

¹ On December 1, 2003 the employing establishment removed appellant from her position as information receptionist effective December 8, 2003 due to her failure to maintain a regular work schedule.

In a letter dated September 8, 2003, appellant requested reconsideration. In support of her request she submitted a June 26, 2003 MRI scan and July 7, 2003 report by Dr. Speller. The June 26, 2003 MRI scan revealed a medial meniscus oblique tear, medial compartment mild chondromalacia, “[h]orizontal band of bone marrow edema medial tibial plateau, likely representing a stress-related bone marrow response without fracture,” *pes anserine* bursitis and proximal patellar and distal quadriceps tendinosis.

In a September 18, 2003 report, Dr. Speller reiterated the physical findings and diagnoses contained in the July 7, 2003 report.

In an October 16, 2003 report, Dr. B.T. Wright, Jr., an examining Board-certified orthopedic surgeon, noted that appellant sustained a right knee injury on November 29, 1999. A MRI scan revealed a left medial meniscus tear.

In a decision dated October 27, 2003, the Office denied modification of its August 26, 2003 decision.

In November 11, 2003 progress notes, Dr. Wright noted that appellant had been having trouble with her knee for some time and was scheduled for arthroscopic surgery on November 19, 2003.

On December 4, 2003 Dr. Speller noted that appellant has had problems with her left knee since she injured it at work on November 29, 1999. He left internal derangement, left medial meniscus tear with a centrally displaced fragment, chondromalacia, patella tendinosis, effusion and bruised bone due to the accepted November 29, 1999 employment injury. A physical examination revealed mild left knee effusion, abnormal gait, left knee crepitus on extension and flexion, pain upon percussion and palpation of the *pes anserinosus* and medial joint line and “pain on varus and valgus stress manifested more about the medial joint line.” In concluding, Dr. Speller opined that appellant was totally disabled due to her November 29, 1999 employment injury.

On March 4, 2004 appellant requested reconsideration.

In a decision dated June 14, 2004, the Office denied modification of its previous decision denying appellant’s recurrence of disability claim.

On June 28, 2004 appellant requested reconsideration.

By nonmerit decision dated August 9, 2004, the Office denied appellant’s request for reconsideration.²

On February 20, 2006 Dr. Speller diagnosed left medial meniscus tear and internal derangement due to her November 29, 1999 employment injury. As a result of her left knee pain appellant began to favor her right knee, which caused her more pain than the left knee. Dr. Speller opined that appellant’s right knee pain was due to the November 29, 1999 left knee

² The decision was sent to an incorrect address of 2442 Red Ripple, Houston, TX 77076.

injury. He noted that appellant underwent arthroscopic surgery on March 11, 2005, which found a right knee medial meniscus tear and chondroplasty. A physical examination of her left knee revealed it be “hot, painful and swollen with definite effusion that also extends down to facial plains” and caused her right knee swelling. In concluding, Dr. Speller noted an MRI scan confirmed a left knee torn meniscus and internal derangement.

On November 8, 2006 the Office reissued the August 9, 2004 nonmerit decision denying appellant’s request for reconsideration of the merits.³

On May 21, 2007 the Board issued an order setting aside the November 8, 2006 nonmerit decision as the Office merely reissued the August 9, 2004 nonmerit decision and sent it to appellant’s correct street address. Thus, the case was remanded to the Office to reopen the case record and issue an appropriate decision on the merits in order to preserve appellant’s appeal right.

By merit decision dated July 18, 2007, the Office denied modification of its previous decision denying appellant’s recurrence of disability claim.

LEGAL PRECEDENT

The Office’s implementing regulations define a recurrence of disability as 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 If the disability results from new exposure to work factors, the legal chain of causation from the accepted injury is broken and an appropriate new claim should be filed.⁵

When an employee, who is disabled from the job she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence establishes that the employee can perform the light-duty position, the employee has the burden 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 light duty. 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 light-duty job requirements.⁶ This includes the necessity of furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to employment factors and supports that conclusion with sound medical reasoning.⁷ An award of compensation may

³ The Office crossed out “2442 Red Ripple” and wrote “242 Red Riple Road” in the address.

⁴ 20 C.F.R. § 10.5(x); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3.b(a)(1) (May 1997). *See also Phillip L. Barnes*, 55 ECAB 426 (2004).

⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3 (May 1997), *Donald T. Pippin*, 54 ECAB 631 (2003).

⁶ *Albert C. Brown*, 52 ECAB 152 (2000); *see also Terry R. Hedman*, 38 ECAB 222 (1986).

⁷ *Ronald A. Eldridge*, 53 ECAB 218 (2001); *see Nicolea Brusio*, 33 ECAB 1138 (1982).

not be made on the basis of surmise, conjecture, speculation or on appellant's unsupported belief of causal relation.⁸

While the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute certainty, neither can such an opinion be speculative or equivocal. The opinion of a physician supporting causal relationship must be one of reasonable medical certainty that the condition for which compensation is claimed is causally related to federal employment and that such a relationship must be supported with affirmative evidence, explained by medical rationale and be based on a complete and accurate medical and factual background of the claimant.⁹ Medical conclusions unsupported by medical rationale are of diminished probative value and are insufficient to establish causal relationship.

ANALYSIS

The Office accepted appellant's claim for left knee strain. She alleged a recurrence of disability on January 19, 2003 due to her accepted November 29, 1999 employment injury. On June 6, 2005 the Office advised appellant of the type of medical and factual evidence needed to establish her claim for a recurrence of disability. However, appellant did not submit medical reports which contained a rationalized opinion from a physician who, on the basis of a complete and accurate factual and medical history, concluded that her disability commencing on or after December 9, 2004 was causally related to the employment injury and supported that conclusion with sound medical reasoning.¹⁰

In support of her claim appellant submitted various reports by Dr. Speller for the period June 12, 2003 though February 20, 2006, a June 26, 2003 MRI scan, an October 16, 2003 report and November 11, 2003 progress notes by Dr. Wright. The June 26, 2003 MRI scan and medical report and progress notes by Dr. Wright are insufficient to establish appellant's claim that she sustained a recurrence of disability on and after January 19, 2003 due to her accepted November 29, 1999 employment injury. Neither Dr. Wright nor the MRI scan address the cause of appellant's condition. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship between appellant's current condition beginning January 19, 2003 to the accepted November 29, 1999 work injury.¹¹

On June 12, July 7 and September 18, 2003 and February 20, 2006 Dr. Speller diagnosed tear of left meniscus and internal derangement based on June 26, 2003 MRI scan results. However, in neither of these reports did Dr. Speller discuss how appellant's left knee condition was caused by the November 29, 1999 employment injury. On an Office form report dated

⁸ *Patricia J. Glenn*, 53 ECAB 159 (2001).

⁹ *Conard Hightower*, 54 ECAB 796 (2003).

¹⁰ *See Helen K. Holt*, 50 ECAB 279 (1999).

¹¹ *K.W.*, 59 ECAB ____ (Docket No. 07-1669, issued December 13, 2007); *J.M.*, 58 ECAB ____ (Docket No. 06-2094, issued January 30, 2007) (medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

June 12, 2003, Dr. Speller checked the “yes” box indicating that appellant’s condition was employment related. On that report he diagnosed internal derangement without any further explanation as to how or why appellant’s accepted left knee strain caused an internal derangement. When a physician’s opinion on causal relationship consists only of checking yes to a form question, without explanation or rationale, that opinion is of diminished probative value and is insufficient to establish a claim.¹²

Dr. Speller’s remaining reports are insufficient to meet appellant’s burden that her recurrence of disability beginning January 19, 2003 was causally related to her accepted November 29, 1999 employment injury. In his February 20, 2006 report, Dr. Speller related that appellant had persistent pain in her left knee since her November 29, 1999 employment injury and that her current left knee condition was due to this injury. In his reports dated July 7 and September 18, 2003, he provided physical findings and concluded that appellant had been totally disabled since June 6, 2002. Dr. Speller diagnosed medical meniscus tear and internal derangement due to her November 29, 1999 employment injury. However, there is no discussion explaining how the left medial meniscus tear and left knee internal derangement were caused or contributed to by her accepted left knee strain.

The Board notes that an award of compensation may not be based on surmise, conjecture or speculation.¹³ The mere fact that appellant’s left knee pain never stopped following the employment injury, without more, is insufficient to establish a causal relationship, as the work activities may produce symptoms which are revelatory of an underlying condition.¹⁴ Moreover, it appears that appellant had not been working since 2002 due to disability from another work injury. To be of probative value, a physician’s opinion must be based on a complete factual and medical background and be supported by medical rationale explaining the nature of the relationship between the claimed condition and the employment injury or factors of her federal employment.¹⁵

Dr. Speller’s medical reports are insufficient to establish appellant’s claim because he did not present adequate medical rationale showing how her current left knee condition is causally related to the November 29, 1999 employment injury. The other medical evidence submitted by appellant does not specifically address causal relationship between her accepted condition and the conditions of left torn medial meniscus and internal derangement, which had not been accepted by the Office. Thus, she did not meet her burden of proof in establishing that she sustained a recurrence of disability.

¹² *D.D.*, 57 ECAB 734 (2006).

¹³ *D.E.*, 58 ECAB ____ (Docket No. 07-27, issued April 6, 2007).

¹⁴ See *Gary R. Fullbright*, 40 ECAB 737 (1989).

¹⁵ *Lucrecia M. Nielson*, 42 ECAB 583 (1991).

CONCLUSION

The Board finds that appellant has not met her burden of proof in establishing that she sustained a recurrence of disability or a medical condition on or after January 19, 2003 causally related to her accepted left knee sprain of November 29, 1999.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated July 18, 2007 is affirmed.

Issued: July 24, 2008
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board