

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROSE CAHILL, claiming as widow of JOSEPH F. CAHILL and
U.S. POSTAL SERVICE, POST OFFICE, Commack, N.Y.

*Docket No. 97-1211; Submitted on the Record;
Issued May 14, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether the employee's death on June 8, 1995 was causally related to factors of his federal employment.

On June 30, 1976 the employee, then a 52-year-old postal supervisor, filed a claim alleging that he sustained an emotional condition on June 29, 1976 causally related to factors of his federal employment. By decision dated February 14, 1977, the Office of Workers' Compensation Programs accepted appellant's claim for depression and appropriate compensation benefits were paid. On August 15, 1995 appellant filed a claim for death benefits upon the death of her 71-year-old husband, the employee, on June 8, 1995. She attributed the employee's death to his work-related depression sustained in 1976.

The record contains copies of medical notes and reports dated November 26, 1985 through August 15, 1994 describing the employee's problems with diabetes, hypothyroidism, heart conditions, ear conditions, foot and leg conditions, skin conditions and depression. None of these notes or reports contain a rationalized medical opinion as to the cause of the employee's depression during this period of time.

Of record are letters from the employing establishment to the Office dated August 23, 1993 and October 24, 1994 noting that the Office had failed to refer the employee for a second opinion examination, as had been recommended by an Office rehabilitation specialist, as to whether his employment-related depression had resolved. The employing establishment also noted that the employee had suffered a heart attack in recent years which the employing establishment felt was the cause of his total disability, rather than his depression, because he had not worked at the employing establishment for approximately 17 years.

In medical notes dated June 5, 1995, Dr. Anthony Verga, a Board-certified psychiatrist and neurologist, related that the employee had been under his care for depression for many years and had also been under treatment for multiple physical disorders. He stated his opinion that the

employee's depression exacerbated the deterioration in his overall physical condition to a significant degree. On the reverse side of these notes, appellant related that the employee had been treated for depression since 1976 and attended regular individual and group sessions with a psychiatrist. She alleged that the employee's depression caused him to be physically inactive which led to his physical problems.

In a report dated June 8, 1995, Dr. Shing-Shing Yeh, a Board-certified internist, related that the employee was admitted to the hospital on May 8, 1995 complaining of shortness of breath and was treated for congestive heart failure. He noted that the employee had multiple medical problems including past multiple myocardial infarctions, diabetes, hypothyroidism and peripheral vascular disease and that he also had a history of anxiety disorder. Dr. Yeh stated that on June 8, 1995 the employee was found without pulse or respiration and was pronounced dead. He stated that the employee's family did not request an autopsy.

In a state department of health certificate of death filed June 9, 1995, the cause of the employee's death was listed as cardiopulmonary arrest due to end stage cardiac disease secondary to diabetes mellitus, congestive heart failure and chronic obstructive pulmonary disease.

In notes dated February 26, 1996, Dr. Verga stated that the employee was his patient from approximately May 1992 to June 8, 1995 and his understanding was that the employee's death was attributed to cardiac problems. He stated that the employee was also under care for a depressive disorder for approximately 20 years and that he had been the employee's treating psychologist for the last three years of his life. Dr. Verga related that during the year prior to his death the employee had little ambulation or other physical activity and that his psychomotor retardation was severe. He stated his opinion that the employee's depression had a direct causal relationship to his overall cardiac status and that his immobility directly and negatively affected his cardiac deterioration and subsequent death.

By decision dated March 28, 1996, the Office denied appellant's claim for compensation benefits on the grounds that the evidence of record did not establish causal relationship between the employee's death from cardiopulmonary arrest and his employment injury, depression.

The Board finds that appellant has not met her burden of proof in establishing that the employee's death on June 8, 1995 was causally related to his June 29, 1976 employment-related depression.

In a claim for death benefits under the Federal Employees' Compensation Act,¹ the claimant for benefits has the burden of proof to establish the necessary elements of his or her claim.² The claimant must prove by the weight of the reliable, probative and substantial evidence the existence of a causal relationship between the employee's death and factors of his or her federal employment.³ This burden includes the necessity of furnishing rationalized

¹ 5 U.S.C. §§ 8101-93.

² *Darlene Menke (James G. Menke, Sr.)*, 43 ECAB 173 (1991).

³ *Martha A. Whitson (Joe E. Whitson)*, 43 ECAB 1176 (1992).

medical opinion evidence, based on a complete factual and medical background, showing causal relationship.⁴

In this case, the record shows that the Office accepted the employee's claim for depression sustained in 1976. However, the medical evidence of record is not sufficient to establish that the employee's death in 1995 was causally related to his depression.

The employee's certificate of death lists the cause of his death as cardiopulmonary arrest due to end stage cardiac disease secondary to diabetes mellitus, congestive heart failure and chronic obstructive pulmonary disease. It does not mention depression as a contributing factor in his death.

In letters dated August 23, 1993 and October 24, 1994, the employing establishment noted that the employee had not worked at the employing establishment for approximately 17 years.

The record contains copies of medical notes and reports dated November 26, 1985 through August 15, 1994 describing the employee's problems with diabetes, hypothyroidism, heart conditions, ear conditions, foot and leg conditions, skin conditions and depression. However, none of these notes or reports contain a rationalized medical opinion as to the cause of the employee's depression during this period of time and therefore this medical evidence is not sufficient to establish that the employee's death from cardiopulmonary arrest was causally related to his depression.

In medical notes dated June 5, 1995, Dr. Verga, a Board-certified psychiatrist and neurologist, related that the employee had been under his care for depression for many years and had also been under treatment for multiple physical disorders. He stated his opinion that the employee's depression exacerbated the deterioration in his overall physical condition to a significant degree. However, Dr. Verga did not provide a rationalized medical opinion, based upon a thorough factual background, as to how he could determine that the employee's physical condition prior to his death was due to his depression rather than to one or more of his many other medical problems. He also did not explain why appellant's employment-related depression had not resolved in light of the fact that he had not worked for the employing establishment in approximately 17 years. As noted above, a physician's opinion as to causal relationship must be supported by medical rationale. As Dr. Verga's opinion on causal relationship is not rationalized it is not sufficient to discharge appellant's burden of proof.

In a report dated June 8, 1995, Dr. Yeh, a Board-certified internist, related that the employee was admitted to the hospital on May 8, 1995 and was treated for congestive heart failure. He noted that the employee had multiple medical problems including past multiple myocardial infarctions, diabetes, hypothyroidism, peripheral vascular disease and anxiety disorder. Dr. Yeh stated that on June 8, 1995 the employee was found without pulse or respiration and was pronounced dead. However, Dr. Yeh did not opine as to the cause of the

⁴ *Id.*

employee's congestive heart failure and subsequent death and therefore this report is not sufficient to establish that his death was causally related to his depression.

In notes dated February 26, 1996, Dr. Verga stated his understanding that the employee's death was attributed to cardiac problems. He related that during the year prior to his death the employee had little physical activity. Dr. Verga stated his opinion that the employee's depression had a direct causal relationship to his overall cardiac status and that his immobility directly and negatively affected his cardiac deterioration and subsequent death. However, his opinion as to causal relationship is insufficiently rationalized. He did not provide sufficient medical rationale, based upon a complete and accurate factual background, as to how the employee's lack of physical activity and death were causally related to his depression rather than to some other medical condition. As noted above, such rationale is particularly important in light of the fact that the employee had not worked at the employing establishment for 17 years or more, and in light of the fact that he had been diagnosed with numerous medical conditions. Therefore this report is not sufficient to establish that the employee's death was causally related to his employment-related depression.

The decision of the Office of Workers' Compensation Programs dated March 28, 1996 is affirmed.

Dated, Washington, D.C.
May 14, 1999

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member