

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of HERIBERTO ALGARIN and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL CENTER, San Juan, PR

*Docket No. 01-1637; Submitted on the Record;
Issued February 22, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether the transient ischemic attacks appellant sustained on December 20, 1995 and April 8, 1997 and related emotional conditions resulted from factors of his federal employment.

On February 20, 1995 appellant, then a 61-year-old social worker, alleged that, while interviewing a patient's wife, he felt numbness on the right side of his mouth and low lip, had difficulty talking clearly, felt dizziness, leg weakness and loss of balance. Appellant stopped working as of December 21, 1995. In a statement dated February 29, 1996, he stated that, during the time the incident occurred, there was lots of pressure within the ward to interview families of patients hospitalized in order to dispose of patients within the ward facilities as soon as possible. Appellant stated that while interviewing the family member on February 20, 1995 other families were waiting for him to interview them.

Appellant was hospitalized at the employing establishment on December 21, 1995 and discharged on January 5, 1996, with diagnoses including left pontine on thalamic acute ischemic infarct, recurrent transient ischemic attacks in the vertebro basilar area and hypertension.

By decision dated December 10, 1997, the Office of Workers' Compensation Programs denied the claim, No. A02-707201, stating that appellant failed to establish that his condition was caused by an employment factor.

On May 22, 1997 appellant filed a traumatic injury claim alleging that he was seeing three patients on April 8, 1997, he later ate and then half of his body "slept" and he had left hemiparesis. Appellant missed work from April 9 to May 22, 1997. In a statement dated May 23, 1997, appellant stated that the three psychiatric patients and their families he saw had serious and difficult situations, which created stress and led to his condition. Appellant was hospitalized from April 9 through 18, 1997 with his discharge summary stating that his diagnoses included transient ischemic attack, old left caudate nucleus infarction and high blood pressure.

By letter dated December 10, 1997, the Office requested additional information from appellant including a narrative statement from his treating physician stating what exposure or incidents in his federal employment contributed to his condition.

In a report dated December 30, 1997, appellant's treating physician, Dr. Rafael Melendez-Feliciano, a Board-certified psychiatrist and neurologist, stated that appellant had been treated since December 21, 1995 for multiple cerebral ischemic infarctions, which had been confirmed by a brain magnetic resonance imaging (MRI) scan and evidence of arterosclerotic changes at the basilar and posterior cerebral arteries. He stated that appellant had been under "severe stressful situations including frequent changes in duties in his position and on many occasions aggravations at the hospital environment that has contributed to episodes of high blood pressure." Dr. Melendez-Feliciano stated that these episodes of high blood pressure "can be precipitating factors in the development of multiple ischemic cerebral infarctions resulting in his present status of vascular dementia and depression." In an attending physician's report dated December 3, 1997, he diagnosed vascular dementia with depression, checked the "yes" box that appellant's condition was work related and stated that appellant was under severe stress in his workplace due to cognitive deficits.

By decision dated February 24, 1998, the Office denied appellant's claim, No. 02-0728983, stating that the evidence was insufficient to establish that his condition was caused by the employment factor.

By letter dated March 22, 1998, appellant requested reconsideration of the Office's decision and submitted an attending physician's report from Dr. Melendez-Feliciano dated February 26, 1998, in which he diagnosed multiple caudal ischemic infarction and vascular dementia with depression. Dr. Melendez-Feliciano checked the "yes" box that appellant's condition was work related.

The Office prepared a statement of accepted facts which it submitted to a district medical adviser. In a statement dated May 6, 1998, the district medical adviser considered that appellant's diagnoses included hypertensive arterosclerotic vascular disease, hypercholesterolemia and multiple lacunar cerebral infarction due to hypertension and stated that there was nothing to indicate any causal relationship to employment. The district medical adviser stated that the events of April 8, 1997 were a complication of a long process of vascular changes related to blood pressure, elevated cholesterol, family history, diet, exercise and other factors. He stated that no episode at work caused the vascular change which resulted in the infarctions. Further, the district medical adviser stated that the disability was related to the cumulative effect of a number of genetic and environmental factors unrelated to work.

By decision dated June 15, 1998, the Office denied appellant's request for modification. The Office combined appellant's two claims, A02-707201 and A02-728983, into one claim, with claim No. A02-728983 controlling.

By letter dated May 5, 1999, appellant requested reconsideration of the Office's decision and submitted the report of Dr. Julio A. Albino-Vazquez, a general practitioner, dated February 20, 1999. In his report, Dr. Albino-Vazquez diagnosed, *inter alia*, recurrent transient ischemic attacks, caudal nucleus ischemic, high blood pressure and hypercholesterolemia. He

stated that there was a “direct relation between [appellant] doing his job, the health condition previously known by the [employing establishment] and [appellant’s] job performance in the last months.” Dr. Albino-Vazquez stated:

“High [b]lood [p]ressure plus high cholesterol levels and recurrent exposure of [appellant] while doing his job to external stress, like intervention with patients and relatives, results in episodes of transients cerebral eschemia who later ends in cerebro vascular accidents and permanent damages. The previously explained is exactly the job-related actions who justify compensation to [appellant].”

He stated that the employing establishment did not provide appellant with “relocation” in the workplace and permitted him to be exposed to stress which had a secondary and negative effect on appellant.

By letter dated July 9, 1999, the district medical adviser reviewed Dr. Albino-Vazquez’s May 5, 1999 report and stated that there was no rationale relating specific work events to the onset of symptoms. He stated that the transient ischemic attack occurred at work but was not caused by work and that it was caused by multiple preexisting conditions unrelated to work.

By decision dated August 12, 1999, the Office denied appellant’s request for modification.

By letter dated July 12, 2000, appellant requested reconsideration of the Office’s decision, which the Office denied on August 8, 2000.

By letter dated August 11, 2000, appellant requested reconsideration of the Office’s decision and submitted additional evidence including a medical report from Dr. Melendez-Feliciano dated August 7, 2000 and a disability note from Dr. Norman R. Rosario-Santos, a psychiatrist, apparently dated May 24, 1997, in which he stated that appellant should continue working in a less stressful environment. In his August 7, 2000 report, Dr. Melendez-Feliciano stated that appellant’s blood pressure was discovered for the first time in December 20, 1995 when appellant had the first of a series of cerebral ischemic infarctions. He stated that, up to that date, there was no knowledge of that condition. Dr. Melendez-Feliciano stated that, after appellant’s March 1997 hospitalization, appellant was examined on December 3, 1997 and it was obvious that his medical condition had been seriously aggravated as compared with the initial hospitalization in 1995. He stated that appellant “had been at the time under severe stressful situations due to frequent changes in his working conditions where he was placed.” Dr. Melendez-Feliciano stated that there had been medical and psychological recommendations suggesting that he be changed to a less stressful position.

By decision dated November 8, 2000, the Office denied appellant’s request for modification.

The Board finds that appellant has failed to establish that his transient ischemic attacks on December 20, 1995 and April 8, 1997 and the related emotional conditions of dementia with depression were causally related to factors of his federal employment.

An employee seeking benefits under the Federal Employees' Compensation Act has the burden of establishing the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was filed within the applicable time limitation of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.¹ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.²

The medical evidence required to establish a causal relationship, generally, is rationalized medical evidence. 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.³

In this case, in his reports dated December 21, 1995 and August 7, 2000, Dr. Melendez-Feliciano stated that appellant had been under severe stressful situations including frequent changes in duties in his positions and had aggravation at the hospital, which contributed to episodes of high blood pressure. He, however, did not specifically describe which changes in duties in appellant's position aggravated his condition and, therefore, Dr. Melendez-Feliciano's opinion is too general and vague for it to be probative.⁴ In his December 21, 1995 report, Dr. Melendez-Feliciano stated that the episodes of high blood pressure "can be precipitating factors in the development of multiple ischemic cerebral infarctions resulting in his present status of vascular dementia and depression." He did not specifically state which factors of employment precipitated appellant's condition and was not conclusive that blood pressure precipitated appellant's infarctions. A medical opinion which is equivocal in nature or lacking in adequate rationale is of limited probative value.⁵

In an attending physician's report dated December 3, 1997, Dr. Melendez-Feliciano checked the "yes" box to indicate that appellant's condition of vascular dementia with depression was work related and stated that appellant was under severe stress in his workplace due to cognitive deficits. Thus, in this report he did not attribute appellant's condition to his employment. In an attending physician's report dated February 26, 1998, Dr. Melendez-Feliciano also checked the "yes" box to indicate that appellant's conditions of multiple caudal ischemic infarction and vascular dementia with depression were work related.

¹ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

² *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

³ *Gary L. Fowler*, 45 ECAB 365, 371; *Ern Reynolds*, 45 ECAB 690, 695 (1994).

⁴ *See Durwood H. Nolan*, 46 ECAB 818, 821 (1995); *Ern Reynolds*, *supra* note 3.

⁵ *Betty M. Regan*, 49 ECAB 496 (1998).

The Board has held that a physician's opinion indicating a causal relationship between an employee's condition and the employment by checking "yes" on a medical form, is without explanation or rationale, of little probative value.⁶ Dr. Melendez-Feliciano's February 26, 1998 report is, therefore, not probative.

In his May 5, 1999 report, Dr. Albino-Vazquez stated that there was a direct relation between appellant doing his job and the health condition previously known to the employing establishment in the past few months. He stated that intervention with patients and relatives caused appellant stress and "results" in episodes of transients cerebral eschemia, which later ends in cerebro vascular accidents and permanent damages. In view of appellant's alleging two dates and specific incidents on December 20, 1995 and April 8, 1997, which caused his condition, Dr. Albino-Vazquez's opinion, in referring only generally to "intervention with patients" is too vague to be probative. His opinion, therefore, does not establish the requisite causation. The medical evidence of record which states that appellant should work in a less stressful situation does not establish causation.

Inasmuch as appellant has failed to submit evidence to establish a causal relation between the transient ischemic attacks he sustained on December 20, 1995 and April 8, 1997 and the related conditions of dementia with depression and factors of his employment, he has failed to establish his claim.

The November 8 and August 8, 2000 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, DC
February 22, 2002

Michael J. Walsh
Chairman

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

⁶ *Bernard Snowden*, 49 ECAB 144, 151 (1997).