United States Department of Labor
Employees' Compensation Appeals Board

S.B., claiming as widow of G.B., Appellant	)	
and	)	**Docket No. 09-723**
	)	**Issued: November 4, 2009**
AGENCY FOR INTERNATIONAL DEVELOPMENT, Saigon, Vietnam, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
DAVID S. GERSON, Judge
COLLEEN DUFFY KIKO, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On January 22, 2009 appellant filed a timely appeal from an October 22, 2008 merit decision of the Office of Workers' Compensation Programs denying her claim for death benefits.[1] Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether the employee's death was causally related to his accepted work injury.

FACTUAL HISTORY

In 1972, the Office accepted that the employee, then a 44-year-old public safety adviser, sustained a generalized anxiety disorder and erectile impotence as a result of work performed in

[1] The record also contains an October 23, 2008 overpayment decision. Appellant has not appealed this decision and thus it is not before the Board at this time. 20 C.F.R. § 501.2(c).

Vietnam from April 1968 to January 1972. He stopped work in 1972 and did not return. The Office paid the employee compensation for total disability.

The employee died on May 28, 2008 and appellant, his widow, requested death benefits.[2] The June 4, 2008 death certificate provided the cause of death as ischemic heart disease. The certificate listed stress-induced cardiomyopathy and work-related anxiety neurosis as other significant conditions contributing to death but not resulting in the underlying cause of death.

On July 10, 2008 the Office requested that appellant submit a comprehensive medical report from the employee's attending physician addressing the cause of the employee's death. In a report dated July 18, 2008, Dr. Eran Matalon, a Board-certified internist, related that he had treated the employee since 1992. He diagnosed stress-induced cardiomyopathy due to an underlying anxiety neurosis. Dr. Matalon stated:

> "[The employee] did have numerous other comorbidities including hypertension, hyperlipidemia, valvular and ischemic heart disease. Clearly, most of his comorbidities developed after his stress[-]induced cardiomyopathy. He also had dementia that is thought to be due to normal pressure hydrocephalus. [The employee] had numerous surgical procedures for lung cancer, colon cancer, prostate cancer and the hydrocephalus. He had aortic placement and bypass surgery. According to his psychiatrist and his wife, he was extremely anxious the day prior to his death. Thus, it is my opinion, that his anxiety neurosis was a significant factor leading to his death."

On July 30, 2008 Dr. Neil Ehrlich, a Board-certified psychiatrist, referenced a January 15, 2008 report that he had recently provided comments regarding the employee's condition.[3] He asserted that the employee's anxiety disorder "was a significant contributing proximate cause to his death." Dr. Ehrlich evaluated the employee on the date of death and related:

> "At that time, [the employee's] anxiety level was quite high and he was clearly agitated and struggling emotionally. Although he appeared to be in good physical health at the time, he was clearly dealing with considerable emotional distress -- feeling overwhelmed, anxious and frustrated with his ability to cope. These symptoms had been building over time. [The employee] had problems adjusting to his declining level of functioning and worsening age-related cognition. There had been an attempt to place a shunt in his brain for Normal Pressure Hydrocephalus at the VA [Veterans Affairs] Hospital in San Francisco in early

[2] The record does not contain a claim form from appellant requesting death benefits.

[3] In a report dated January 15, 2008, Dr. Ehrlich related that he had treated appellant since January 2001 for his "accepted work-related disability" of anxiety neurosis, now known as a generalized anxiety disorder. He asserted that the employee's symptoms of anxiety interfered with his functioning and was "compounded by the fact that he is elderly with both declining physical and cognitive functioning." Dr. Ehrlich opined that the employee's anxiety levels and difficulty concentrating were the "natural evolution of a long-standing problem that began with his original work injury."

2008. This failed due to an infection and had to be removed. [The employee's] emotional equilibrium was compromised by the stress of that situation."

Dr. Ehrlich noted that the employee was initially diagnosed with anxiety neurosis while working for the Federal Government in Vietnam. The employee also developed cardiac problems concurrent with this diagnosis of anxiety neurosis. Dr. Ehrlich indicated that he had not seen early medical records but stated:

"I would have to assume that it was felt that high levels of anxiety triggered his cardiovascular problems. Similarly, it is quite apparent to me that his anxiety and agitation prior to his death were of such a degree that they contributed to his demise. It is certainly well known that stress and anxiety can contribute to or exacerbate cardiovascular conditions; and I feel that this was very likely in [the employee's] situation."

On October 1, 2008 the Office referred the medical records to Dr. Ajit B. Raisinghani, a Board-certified internist, for a second opinion regarding whether the accepted condition or generalized anxiety disorder or factors of employment described in the statement of accepted facts caused, aggravated or accelerated the employee's death.[4] In a report dated October 3, 2008, Dr. Raisinghani discussed the employee's work history and reviewed the medical evidence of record. He described the employee's history of colon cancer, lung cancer, cardiac neurosis, normal pressure hydrocephalus and suspected Alzheimer's disease. Dr. Raisinghani noted that he experienced premature ventricular contractions (PVCs) in the early 1970s. A cardiac catheterization showed mildly depressed left ventricle function. The employee later developed severe aortic stenosis and underwent an aortic value replacement in September 2004. Dr. Raisinghani related:

"Overall, in reviewing the claimant's history, his initial problem appeared to be PVCs. He did have mild cardiomyopathy documented by an angiogram in the early l980s; however, subsequent echoes done within the last 5 [to] 10 years revealed normal LV [left ventricle] function. It would be difficult to attribute his aortic stenosis and the single vessel coronary artery disease documented at the age of 75 or 76 to be attributed to events that took place in 1972, especially considering that the subsequent echoes revealed normal LV function.

"Therefore, my assessment would be that the claimant's death from ischemic heart disease (which incidentally there is no report available of) could not be attributed to his initial accepted disabilities of anxiety neurosis."

By decision dated October 22, 2008, the Office denied appellant's claim for death benefits.

[4] The statement of accepted facts described the employee's work in Saigon, Vietnam and his exposure to hazardous work conditions and the need to work overtime.

LEGAL PRECEDENT

The United States shall pay compensation for the death of an employee resulting from personal injury sustained while in the performance of duty.[5] An appellant has the burden of proving by the weight of the reliable, probative and substantial evidence that the employee's death was causally related to his or her federal employment. This burden includes the necessity of furnishing medical opinion evidence of a cause and effect relationship based on a proper factual and medical background. The opinion of the physician must be one of reasonable medical certainty and must be supported by medical rationale.[6] The mere showing that an employee was receiving compensation for total disability at the time of death does not establish that the employee's death was causally related to his or her federal employment.[7]

ANALYSIS

The Office accepted that the employee sustained a generalized anxiety disorder due to work factors occurring from April 1968 to January 1972. He stopped work in 1972 and received compensation for total disability. The employee died on May 28, 2008 and appellant, his widow, requested death benefits.

In a report dated July 18, 2008, Dr. Matalon diagnosed stress-induced cardiomyopathy due to an underlying anxiety disorder. He discussed the employee's noncardiac conditions of lung cancer, colon cancer, prostate cancer and hydrocephalus. Dr. Matalon noted that the employee's wife and his attending psychiatrist advised that he was anxious the date before his death and thus opined that "his anxiety neurosis was a significant factor leading to his death." He did not, however, specifically attribute the anxiety experienced by the employee to the effects of his work injury or describe the mechanism by which anxiety resulting from the employee's work injury over 35 years prior caused or contributed to death. A medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale.[8]

In a report dated July 30, 2008, Dr. Ehrlich asserted that the employee's anxiety disorder was a significant contributing cause of his death. He indicated that he had treated the employee the date of his death and that he was "clearly agitated and struggling emotionally." Dr. Ehrlich found that he had difficulty "adjusting to his declining level of functioning and worsening age-related cognition." He noted that an attempt to treat the employee's normal pressure hydrocephalus failed due to an infection and that his "emotional equilibrium was compromised by the stress of that situation." Dr. Ehrlich opined that the employee's anxiety at the time he initially received disability may have resulted in his cardiovascular problems. He advised that stress and anxiety could exacerbate cardiovascular conditions and that he felt "this was very likely in [the employee's] situation." Dr. Ehrlich, however, appeared to relate the employee's

[5] 5 U.S.C. § 8102(a).

[6] *Jacqueline Brasch (Ronald Brasch)*, 52 ECAB 252 (2001).

[7] *Susanne W. Underwood* (*Randall L. Underwood*), 53 ECAB 139 (2001).

[8] *See T.M.*, 60 ECAB ___ (Docket No. 08-975, issued February 6, 2009).

stress and anxiety to difficulty coping with his decline in cognitive function due to age and the failure to adequately treat his hydrocephalus rather than his employment-related generalized anxiety disorder. He opined that the employee's anxiety at the time of his initial diagnosis may have precipitated his cardiac condition but noted that he did not have the contemporaneous medical reports to review.[9] Further, Dr. Ehrlich did not provide any rationale for his opinion. Medical conclusions that are speculative or unsupported by rationale are of diminished probative value.[10]

Moreover, in a report dated October 3, 2008, Dr. Raisinghani found that the employee's death did not result from his accepted work injury or other factors of his federal employment. He noted that the employee experienced premature ventricular contractions in the early 1970s and that a cardiac catheterization revealed mildly depressed left ventricle function. Dr. Raisinghani indicated that the employee had mild cardiomyopathy in the early 1980s but that subsequent studies were normal. He found that the employee's aortic stenosis and single vessel coronary artery disease were unrelated to events from 1972 in view of his subsequent normal left ventricle functions on echocardiogram. Dr. Raisinghani opined that the employee's death due to ischemic heart disease "could not be attributed to his initial accepted disabilities of anxiety neurosis." His opinion is rationalized and thorough and represents the weight of the evidence. Consequently, appellant has not met her burden of proof to establish that the employee's death was causally related to his accepted work injury.

On appeal appellant noted that the Office paid the employee's cardiac bills from 1972 to 2004. The fact that the Office authorized and paid for some medical treatment, however, does not establish that the condition for which the employee received treatment was employment related.[11] Appellant also indicated that the employee received psychiatric treatment twice a month until his death and that on the day of his death he was extremely anxious. She believed that his anxiety contributed to his death. Appellant quoted the death certificate which provided that stress-induced cardiomyopathy and work-related anxiety neurosis were significant conditions contributing to death. She, however, has the burden of proof to submit rationalized medical evidence showing that the employee's death was causally related to his accepted employment injury.[12] Appellant has not submitted a medical report from a physician who provides an accurate history of the employee's work injury, addresses the cause of death on May 28, 2008 and explains with sound medical reasoning how the injury contributed to the death. Consequently, she has not met her burden of proof.[13]

[9] Medical conclusions based on an inaccurate or incomplete factual history are of diminished probative value; *see M.W.*, 57 ECAB 710 (2006).

[10] *See T.M.*, *supra* note 8; *Jacquelyn L. Oliver*, 48 ECAB 232 (1996).

[11] *See Glen E. Shriner*, 53 ECAB 165 (2001); *Dale E. Jones*, 48 ECAB 648 (1997).

[12] *Jacqueline Brasch (Ronald Brasch)*, *supra* note 6.

[13] Appellant also argued that the Office erroneously believed that the employee took certain medication; however, the medication taken by the employee is not pertinent to the relevant issue of whether his death was causally related to his accepted work injury.

CONCLUSION

The Board finds that appellant has not established that the employee's death was causally related to his accepted work injury.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated October 22, 2008 is affirmed.

Issued: November 4, 2009
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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