United States Department of Labor
Employees' Compensation Appeals Board

B.M., Appellant	)	
and	)	**Docket No. 12-783**
	)	**Issued: November 1, 2012**
DEPARTMENT OF HOMELAND SECURITY, FEDERAL EMERGENCY MANAGEMENT AGENCY, Antioch, TN, Employer	)	

Appearances:
Capp Taylor, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Alternate Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On February 27, 2012 appellant, through his attorney, filed a timely appeal from a December 1, 2011 merit decision of the Office of Workers' Compensation Programs (OWCP) denying his traumatic injury claim. Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 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 appellant met his burden of proof to establish that he sustained an injury in the performance of duty on June 20, 2010.

[1] 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On June 21, 2010 appellant, then a 48-year-old hazard mitigation specialist, filed a traumatic injury claim (Form CA-1) alleging that on June 20, 2010 he sustained a heart attack in the performance of duty as a result of a near automobile accident. The employing establishment controverted his claim on the grounds that he failed to submit medical evidence to support a causal relationship between his claimed condition and the alleged event.

By letter dated June 29, 2010, OWCP advised appellant of the deficiencies in his claim and requested additional factual and medical evidence to establish his claimed injury.

In a June 21, 2010 report, Dr. Brian S. Aprill, a Board-certified internist, stated that on the, previous day, appellant had experienced a myocardial infarction, which necessitated a heart catheterization and stent placement. He diagnosed Type 2 diabetes and noted that appellant was a high risk patient with uncontrolled diabetes in the setting of acute coronary disease.

In a June 24, 2010 report, Dr. John Riddick, a Board-certified cardiologist, stated that appellant had experienced a heart attack on June 21, 2010. Noting a history of coronary artery disease, appellant had presented to the emergency room with chest pains on that date. Dr. Riddick diagnosed hyperlipidemia, diabetes mellitus and hypertension and recommended that appellant remain off work for one month. In a June 28, 2010 attending physician's report, he indicated by placing a checkmark in the "no" box, his belief that appellant's cardiac condition was not caused or aggravated by his employment activities.

Appellant contended that his myocardial infarction was caused by a "near accident," which occurred immediately prior to the heart attack. He stated that the near accident caused an acute stress reaction, including a rapid beating of his heart. It also caused appellant's seat belt to lock up and place pressure on his chest, left shoulder and waist. Appellant claimed alternatively that other work factors contributed to his heart attack, including long work hours and excessive heat while performing disaster details and insufficient staffing.[2]

In a letter dated June 28, 2010, the employing establishment stated that appellant had been working long hours, with little time off from work, the week prior to the claimed injury and that he was responsible for insuring proper staffing for the operation.

Appellant submitted emergency room (ER) reports and notes, results of diagnostic tests and a discharge summary dated June 20 2010 from Summit Medical Center. In a June 20, 2010 medical report, Dr. Thomas A. Williams, a treating ER physician, stated that appellant had presented with persistent chest pains that had required catheterization. He diagnosed acute myocardial infarction.

[2] Appellant indicated that he would be filing an occupational disease claim regarding additional possible causes for his heart attack. The record does not contain a copy of a Form CA-2 and IFECS does not reflect that appellant filed a claim for an occupational disease. Prior traumatic injury claims include a June 1, 2007 claim for wrist and neck sprain, right rotator cuff syndrome, carpal tunnel syndrome and lesion of the ulnar nerve (File No. xxxxxx738); a June 30, 2008 claim for insect bite (File No. xxxxxx397); and an October 22, 2008 claim for contusion and sprain of the knee (File No. xxxxxx225).

In undated notes, Dr. Riddick indicated that appellant experienced an acute myocardial infarction on June 20, 2010, followed by a scrotal hematoma and hypertension. He stated that multiple factors that contributed to his heart attack, including stress at work, physical activities, hypertension, obesity and hyperlipidemia.

By decision dated August 3, 2010, OWCP denied appellant's claim finding that the medical evidence did not establish an injury causally related to the established June 20, 2010 employment incident.

On April 26, 2011 appellant requested reconsideration. He stated that his heart attack was brought on primarily by the stress of trying to avoid hitting a child on a bike on the date in question.

The record contains an amended copy of Dr. Riddick's June 28, 2010 attending physician's report, which was modified to indicate by the placement of a checkmark in the "yes" box that appellant's condition was caused or exacerbated by employment activities.

In an April 11, 2011 report, Dr. Riddick opined that appellant's hypertension, hyperlipidemia, Type 2 diabetes, tobacco use and obesity were contributing factors to his myocardial infarction and predisposed him to the heart attack. He stated that the long hours and lengthy exposure to extreme heat also contributed, as they would have caused tiring of the heart like any muscle. Dr. Riddick opined that the near miss of the child in appellant's motor vehicle also contributed to the heart attack, "as such an event would cause an adrenalin rush, which would speed up the heart, making it work harder and thus inducing the myocardial infarction and onset of symptomology as he describes." He indicated that his opinions were stated to a reasonable degree of medical certainty.

By decision dated December 1, 2011, OWCP denied modification of the August 3, 2010 decision. The claims examiner found that Dr. Riddick failed to provide rationale as to why appellant's preexisting medical conditions were not the contributing factors that caused his heart attack, rather than the claimed "near miss."

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of establishing the essential elements of his claim, including the fact that he is an employee of the United States within the meaning of FECA; that the claim was filed within the applicable time limitation; that an injury was sustained while in the performance of duty as alleged; and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.[3] These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.[4]

[3] *Gary J. Watling*, 52 ECAB 278 (2001); *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

[4] *Michael E. Smith*, 50 ECAB 313 (1999).

In order to determine whether an employee actually sustained an injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.[5] The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.

The medical evidence required to establish causal relationship is rationalized medical evidence. Rationalized medical evidence must include a physician's rationalized medical opinion on the issue of whether there is a causal relationship between an employee's diagnosed conditions and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the employee's death and the accepted conditions or employment factors identified by the employee.[6]

Under FECA, an employee on travel status, temporary-duty assignment or special mission for his employer is in the performance of duty and therefore under the protection of FECA 24 hours a day with respect to any injury that results from activities essential or incidental to his special duties. However, the fact that an employee is on a special mission or in travel status during the time that a disabling condition manifests itself does not raise an inference that the condition is causally related to the incidents of employment.[7]

ANALYSIS

OWCP accepted that the workplace incident occurred as alleged, namely, that appellant experienced a near automobile accident on June 20, 2010. The issue is whether he submitted sufficient medical evidence to establish that the employment incident caused an injury. The Board finds that the medical evidence of record does not provide a rationalized medical opinion to establish that the work-related incident caused or aggravated the claimed myocardial infarction. Therefore, appellant has failed to satisfy his burden of proof.

In a June 21, 2010 report, Dr. Aprill stated that on the previous day, appellant had experienced a myocardial infarction, which had necessitated a heart catheterization and stent placement. He diagnosed Type 2 diabetes and noted that appellant was a high risk patient with uncontrolled diabetes in the setting of acute coronary disease. Dr. Aprill did not provide an

[5] *Elaine Pendleton, supra* note 3.

[6] *Donna L. Mims*, 53 ECAB 730 (2002).

[7] *See H.S.*, 58 ECAB 554 (2007); *see also Ann P. Drennen*, 47 ECAB 750 (1996); *William K. O'Connor*, 4 ECAB 21 (1950).

opinion as to the cause of appellant's condition.[8] Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value.[9]

On June 24, 2010 Dr. Riddick stated that appellant had experienced a heart attack on June 21, 2010. He diagnosed hyperlipidemia, diabetes mellitus and hypertension and recommended that appellant remain off work for one month. As the report does not contain an opinion on the cause of appellant's diagnosed conditions, it is of limited probative value.[10] In undated notes, Dr. Riddick stated that multiple factors that contributed to appellant's heart attack, including stress at work, physical activities, hypertension, obesity and hyperlipidemia. These notes do not support appellant's claim that his heart attack was caused by the accepted June 20, 2010 incident. Rather, they indicate that his cardiac condition developed over a period of time as a result of numerous factors.

In a June 28, 2010 attending physician's report, Dr. Riddick opined that appellant's cardiac condition was not caused or aggravated by his employment activities. The Board notes that he later amended the June 28, 2010 report by placing a checkmark in the "yes" box to indicate his belief that appellant's condition was caused or exacerbated by employment activities. Dr. Riddick's inconsistent responses, however, diminish the probative value of his opinion. Moreover, he did not describe the medical process through which the accepted incident would have been competent to cause the claimed condition. Medical conclusions unsupported by rationale are of little probative value.[11] The Board has held that a report that addresses causal relationship with a checkmark, without a medical rationale explaining how the work conditions caused the alleged injury, is of diminished probative value and is insufficient to establish causal relationship.[12] Dr. Riddick did not provide findings on examination or a review of a complete factual and medical background of the claimant. For these reasons, his reports are of diminished probative value and insufficient to establish appellant's claim.

On April 11, 2011 Dr. Riddick again opined that appellant's heart attack was caused by multiple factors, including hypertension, hyperlipidemia, Type 2 diabetes, tobacco use, obesity, long hours and lengthy exposure to extreme heat, all of which would have caused tiring of the heart like any muscle. He further opined that the near miss of the child in appellant's motor vehicle also contributed to the heart attack, noting in general terms that " such an event would cause an adrenalin rush, which would speed up the heart, making it work harder and thus inducing the myocardial infarction and onset of symptomology as he describes." The Board finds that Dr. Riddick's opinion is vague and speculative. Dr. Riddick did not provide medical rationale explaining the nature of the relationship between the employee's heart attack on June 20, 2010 and the accepted "near miss" incident. Rather, he has provided an array of

[8] The Board has held that a diagnosis of pain does not constitute a basis of payment for compensation, as pain is considered to be a symptom rather than a specific diagnosis. *Robert Broome*, 55 ECAB 339 (2004).

[9] *Michael E. Smith*, *supra* note 4.

[10] *Id.*

[11] *Willa M. Frazier*, 55 ECAB 379 (2004).

[12] *See Calvin E. King, Jr*., 51 ECAB 394 (2000); *see also Frederick E. Howard, Jr*., 41 ECAB 843 (1990).

possible causes. Dr. Riddick failed to adequately explain the physical process whereby an adrenalin rush, rather than some other factor, caused appellant's heart attack on June 20, 2010. Therefore, his report is of diminished probative value.

The remaining medical evidence of record including disability slips, x-rays and test results, which do not contain an opinion as to the cause of appellant's diagnosed knee condition, are of limited probative value.

Appellant expressed his belief that his cardiac condition resulted from the June 20, 2010 employment incident. The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.[13] Neither the fact that the condition became apparent during a period of employment, nor the belief that the condition was caused or aggravated by employment factors or incidents, is sufficient to establish causal relationship.[14]

OWCP advised appellant that it was his responsibility to provide a comprehensive medical report describing his symptoms, test results, diagnosis, treatment and the doctor's opinion, with medical reasons, on the cause of his condition. Appellant failed to submit appropriate medical documentation in response to OWCP's request. As there is no probative, rationalized medical evidence addressing how his cardiac condition was caused or aggravated by the accepted incident, he has not met his burden of proof to establish that he sustained an injury in the performance of duty on June 20, 2010.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant failed to meet his burden of proof to establish that he sustained a traumatic injury in the performance of duty on June 20, 2010.

[13] *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

[14] *Id.*

ORDER

IT IS HEREBY ORDERED THAT the December 1, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 1, 2012
Washington, DC

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

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

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