

FACTUAL HISTORY

In the prior appeal,² the Board found that appellant did not meet his burden to establish that his emotional condition was causally related to the accepted employment injuries. The Board found that the medical opinion evidence was not based on a proper history and lacked a discussion of causal relationship. The facts of this case as set forth in the Board's prior decision are hereby incorporated by reference.³

OWCP expanded its acceptance of the claim to include effusion of the left knee.

Appellant requested reconsideration and submitted additional medical opinion evidence. In a May 31, 2012 report, Dr. Barry Belt and Dr. Jennifer M. Perez, both licensed clinical psychologists, offered a review of appellant's history. Appellant's medical history included a cardiac condition, for which he had an automatic implantable cardioverter defibrillator (AICD) in place.⁴ He took medication for gastric reflux and hyperlipidemia. Appellant's medical history was reportedly significant for sick sinus syndrome. He suffered from sleep apnea and wore a continuous positive airway pressure (CPAP) mask at night since 2010, though no mention was made of compliance. Appellant's current medications included 40 milligrams of oxycodone twice a day.

Drs. Belt and Perez reviewed the December 31, 2007 and December 11, 2008 employment incidents, appellant's medical treatment,⁵ his complaints and mental status at the time of follow-up in February 2012, and the results of his Beck Depression Inventory. The physicians offered a principal diagnosis of major depressive disorder, single episode, severe, without psychosis.

Drs. Belt and Perez noted that because appellant had no prior history of psychological problems or treatment prior to his work-related physical injuries of December 31, 2007 and December 11, 2008, his depressive symptoms developed as a natural consequence of the multitude of natural consequences of these physical injuries. Such natural consequences included pain, inability to work, inability to engage in recreational physical activities, difficulty completing activities of daily living, financial strain, social isolation, sexual problems related to physical injuries and pain, decreased self-esteem and sense of self-efficacy related to injuries, and resulting irritability, emotional distress, anxiety and depressed mood. Drs. Belt and Perez

² Docket No. 11-1106 (issued December 28, 2011).

³ Appellant, a 42-year-old letter carrier, sustained an injury in the performance of duty on December 31, 2007 when he stood from a bending position and felt a cracking in his knee. OWCP accepted his claim for right knee and leg sprain and derangement of the posterior horn of the right medial meniscus. It also accepted a January 7, 2008 recurrence of medical condition. Appellant underwent a partial medial meniscectomy on August 8, 2008. On December 11, 2008 he sustained another injury in the performance of duty when he fell down steps and injured his back. OWCP accepted that claim for lumbar strain and contusion of the left forearm.

⁴ The medical evidence identifies the nature of appellant's cardiac condition as Brugada syndrome.

⁵ The physicians emphasized that the information on appellant's injury-related treatment should be viewed with caution, as much of the summarization was a result of his subjective self-report, which could not be empirically validated.

advised that as appellant's emotional condition followed from the natural consequences of his work-related physical injuries, his emotional condition was causally related to his work-related physical injuries. They explained that appellant's emotional condition did not appear to be the result of any other independent stressors or factors that were unrelated to his work-related physical injuries, including any other external sources such as unrelated familial stressors. As such, his emotional condition, specifically his major depressive disorder, was causally related only to his work-related physical injuries.

Drs. Belt and Perez explained that appellant's major depressive disorder was incapacitating by itself, would likely persist independent of his pain and prohibited appellant from working even if his physical injuries completely resolved. Appellant sustained irreparable damage to more intangible, but nonetheless critical, areas of his life, including his social reputation, work identity, virility, independence, self-esteem, self-efficacy, self-perception, sense of control and his role identities as provider, employee, husband, father and even "man." Even with the complete resolution of his physical injuries, the injuries to these psychosocial factors were much more difficult to resolve and in the majority of cases were permanent.

In a March 15, 2013 decision, OWCP reviewed the merits of appellant's case and denied modification of its prior decision. It found that the opinion of Drs. Belt and Perez was not well reasoned. They noted a history of unrelated medical conditions, including a cardiac condition requiring an AICD device and medication, as well as hyperlipidemia requiring medication, sick sinus syndrome, sleep apnea requiring a CPAP mask and gastric reflux. The physicians did not discuss the relationship between these conditions and medications, to the diagnosed major depressive disorder. Drs. Belt and Perez did not discuss the relationship between appellant's major depressive disorder and his lumbar disc herniation, facet joint arthropathy, radicular pain, aggravation of preexisting age-related degenerative disc disease, lumbar bulging disc and herniated disc, all of which were unrelated to the work injuries. OWCP found that their report did not establish that the diagnosis was causally related to the accepted right knee and leg sprain, derangement of the posterior horn of the right medial meniscus, left knee effusion, lumbar back sprain or left arm contusion.

On appeal, counsel argued that the opinion of Drs. Belt and Perez establishes that appellant suffered a serious emotional condition as a result of his work injuries.

LEGAL PRECEDENT

FECA provides compensation for the disability of an employee resulting from personal injury sustained while in the performance of his duty.⁶ A claimant seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim by the weight of the evidence,⁷ including that he sustained an injury in the performance of duty and that any specific

⁶ 5 U.S.C. § 8102(a).

⁷ *Nathaniel Milton*, 37 ECAB 712 (1986); *Joseph M. Whelan*, 20 ECAB 55 (1968) and cases cited therein.

condition or disability for work for which he claims compensation is causally related to that employment injury.⁸

The evidence generally required to establish causal relationship is rationalized medical opinion evidence. The claimant must submit a rationalized medical opinion that supports a causal connection between his or her claimed condition and the employment injury. The medical opinion must be based on a complete factual and medical background with an accurate history of the claimant's employment injury and must explain from a medical perspective how the claimed condition is related to the injury.⁹

It is an accepted principle of workers' compensation law that when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is deemed to arise out of the employment, unless it is the result of an independent, intervening cause attributable to the employee's own intentional conduct.¹⁰

ANALYSIS

To support his claim that his emotional condition is causally related to the accepted employment injuries, appellant submitted a report from Drs. Belt and Perez, who are licensed clinical psychologists. Drs. Belt and Perez concluded that appellant's major depressive disorder was causally related to the accepted employment injuries. The Board finds, however, that their opinion is not well rationalized and is insufficient to establish the element of causal relationship.

Dr. Belt and Dr. Perez relied, at least in part, on the apparent temporal sequence of events. They noted that appellant had no history of psychological problems or treatment prior to his work-related physical injuries on December 31, 2007 and December 11, 2008. While this may be consistent with causal relationship, it does not establish the critical element. Dr. Belt and Dr. Perez must support their opinion with sound medical reasoning.¹¹

The physicians stated that appellant's depressive symptoms developed as a natural consequence of the work-related physical injuries. These consequences included pain, inability to work, inability to engage in recreational physical activities, difficulty completing activities of daily living, financial strain, social isolation, sexual problems related to physical injuries and pain, decreased self-esteem and sense of self-efficacy related to injuries, and resulting irritability, emotional distress, anxiety and depressed mood. However, Drs. Belt and Perez did not explain how the specifically accepted physical injuries -- a sprain, a strain, a contusion, a meniscal tear, an occasional mild effusion -- caused this multitude of consequences. They stated generally that the consequences followed naturally.

⁸ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁹ *John A. Ceresoli, Sr.*, 40 ECAB 305 (1988).

¹⁰ *John R. Knox*, 42 ECAB 193 (1990); *Lee A. Holle*, 7 ECAB 448 (1955).

¹¹ *Thomas D. Petrylak*, 39 ECAB 276 (1987).

A rational explanation is important given appellant's significant history of nonwork-related pain and physical injury or disease. Drs. Belt and Perez acknowledged that appellant suffered from a cardiac condition requiring an AICD device, that he had hyperlipidemia and gastric reflux, that he was diagnosed with sick sinus syndrome, that he suffered from sleep apnea and wore a CPAP mask at night, and that he took prescription medications. They did not adequately discuss the natural consequences of these physical injuries and medications, nor did they explain why they believed none of appellant's depressive symptoms were related to them.

The record establishes that appellant suffered from lumbar disc degeneration with a mild disc bulge and facet hypertrophy and foraminal narrowing at L3-4 and L4-5, as well as a bulging disc and herniation at L5-S1. Appellant complained of low back pain radiating into the right leg and was confirmed to have an S1 radiculopathy. He was also diagnosed with degenerative arthritis of the right knee. Drs. Belt and Perez did not discuss the natural consequences flowing from these physical injuries, none of which are accepted work injuries. If, as stated, appellant developed depressive symptoms because of physical injuries and pain, the record documents that he suffered from physical injuries and pain that were not work related. The physicians did not explain the basis for their conclusions that appellant's emotional condition was causally related only to the work-related injuries.

Medical conclusions unsupported by rationale are of diminished probative value.¹² Medical conclusions based on inaccurate or incomplete histories are also of little probative value.¹³ The failure of Drs. Belt and Perez to account for appellant's nonwork-related pain and physical injuries or disease processes undermines their conclusion.

The Board notes that with respect to the December 11, 2008 work injury, appellant's attending physician found that the accepted lumbar strain and left forearm contusion resolved within a week. Drs. Belt and Perez did not explain how such soft-tissue injuries contributed to appellant's depressive symptoms. Financial strain was noted to be a natural consequence of the "work-related physical injuries," but no attempt was made to explain how any of the accepted medical conditions caused it.¹⁴

However, the Board finds that Drs. Belt and Perez provided insufficient rationale to establish the critical element of causal relationship. Accordingly, the Board finds that appellant has not met his burden of proof. The Board will affirm OWCP's March 15, 2013 decision.

¹² *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 968 (1954).

¹³ *James A. Wyrick*, 31 ECAB 1805 (1980) (physician's report was entitled to little probative value because the history was both inaccurate and incomplete). See generally *Melvina Jackson*, 38 ECAB 443, 450 (1987) (addressing factors that bear on the probative value of medical opinions).

¹⁴ OWCP's acceptance of the December 31, 2007 and December 11, 2008 work injuries entitled appellant to compensation for resulting wage loss and medical expenses. Drs. Belt and Perez did not account for this, nor did they discuss his wife's work status or the impact of appellant's receipt of social security disability benefits. The physicians did note that the education of appellant's children was being financed by grants, loans and other financial aid, so their education was not interrupted by appellant's "financial problems related to his work-related injuries."

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 has not met his burden to establish that his emotional condition is causally related to his accepted employment injuries.

ORDER

IT IS HEREBY ORDERED THAT the March 15, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 17, 2014
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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