

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ANGEL CHEVERE and DEPARTMENT OF JUSTICE,
BUREAU OF PRISONS, Montgomery, Pa.

*Docket No. 96-709; Submitted on the Record;
Issued March 5, 1998*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has established that he experienced disabling episodic angina in the performance of duty, causally related to factors of his federal employment.

Appellant, a 46-year-old correctional officer, filed a claim alleging that factors of his federal employment aggravated his "existing heart problems" causing disabling angina on January 28, 1993.

In support of his claim appellant submitted a July 19, 1991 hospital discharge summary, which noted appellant's diagnosis as "unstable angina," and indicated that on July 17, 1991 he underwent a percutaneous transluminal coronary angioplasty of the left anterior descending coronary artery, for a 70 percent occlusive lesion. An incomplete August 5, 1991 hospital discharge summary, noted that appellant was rehospitalized for stabbing chest pain on July 31, 1991, following his percutaneous transluminal coronary angioplasty, which had reduced his left anterior descending coronary artery, blockage to 10 percent. An August 20, 1991 hospital discharge summary, indicated that appellant had been readmitted the day before for "atypical chest pain" and noted that cardiac recatheterization on August 2, 1991, demonstrated that the anterior lesion was at 20 percent. Myocardial tissue damage was ruled out by obtaining a negative cardiac enzyme determination. A November 4, 1991 emergency room report, indicated that appellant had begun to experience stabbing chest pain, at work that date while answering telephones. A December 10, 1991 hospital discharge summary, noted appellant's diagnosis as "unstable angina pectoris," and a September 4, 1992 hospital discharge summary noted appellant's diagnosis as "atypical chest pain." In the September 4, 1992 summary, the treating cardiologist noted, that appellant's chest discomfort "apparently was exacerbated because of a stressful family situation."

The employing establishment provided a description of appellant's duties as including not only the physical exertional requirements but also the following:

"The duties of this position require frequent direct contact with individuals in confinement who are suspected or convicted of offenses against the criminal laws of the United States. Daily stress and exposure to potentially dangerous situations, such as physical attack, are an inherent part of this position; consequently it has been designated as a law enforcement position."

In answer to the Office of Workers' Compensation Programs request for further specifics appellant discussed his physical exposures at work, noted that he received a January 22, 1993 letter, from the employing establishment ordering him to undergo a fitness-for-duty examination, because his medical condition had interfered with his job performance and claimed that on January 28, 1993 he suffered a severe angina attack, while at work due to the constant threat of losing his job, which required hospitalization. In a November 9, 1993 response, to the Office appellant discussed his physical duties and added that he felt stress was a major factor in his condition, in addition to physical strain, causing his angina to worsen.

In a January 29, 1993 hospital discharge summary, appellant's diagnosis was noted as "angina pectoris" and it indicated that prior to appellant's admission he had complained of increasing stress, at work over the preceding several weeks. The discharge summary noted that the treating cardiologists thought that appellant was probably suffering, from stable angina "increased understandably by increased stress" in his life.

In an illegibly signed medical progress note dated February 5, 1993, the physician indicated that appellant was present for a follow up visit after hospitalization and suggested that he had spasm of his coronary arteries.

On December 17, 1993 the Office composed a list of employment factors, implicated in causing appellant's disabling condition, but it listed only physical factors and omitted the factors of daily stress and exposure to potentially dangerous situations, attacks and criminals, which were listed in appellant's job description as being inherent in the job.

On March 24, 1994 the Office referred appellant to Dr. Christopher R. Brancato, a Board-certified cardiologist, for a second opinion on whether appellant's employment factors caused or aggravated his underlying arteriosclerotic heart disease. The Office did not ask Dr. Brancato about the cause of appellant's continuing episodic disabling angina, for which his claim had been filed, but asked only about coronary artery disease.

In a report dated April 19, 1994, Dr. Brancato discussed atherosclerotic coronary artery disease and appellant's underlying risk factors and noted that appellant complained of chest pain, after having the percutaneous transluminal coronary angioplasty. Dr. Brancato noted that appellant again had chest pain in 1992 and underwent a stress, Thallium examination at that time which showed no evidence of ischemia. He explained that this meant that the angioplasty continued to be successful and that the coronary artery had no restenosis, and opined that appellant had no significant obstructive coronary disease at that time. Dr. Brancato noted that appellant had continued to experience chest pain and left arm numbness which he speculated

seemed to be related to states of anxiety and which was not the typical exertional angina one would expect from obstructive atherosclerotic coronary artery disease. He noted that appellant related these angina episodes to periods of stress, but did not further discuss pathophysiology of the recurrent chest pain or its relation to factors of appellant's employment. Dr. Brancato restricted his analysis to answering the specific questions posed by the Office on the causation or aggravation of atherosclerotic coronary artery disease, rather than discussing why appellant continued to have disabling angina after significant atherosclerotic obstruction had been markedly reduced by angioplasty. He opined that stressful factors of appellant's employment had nothing to do with aggravating his underlying coronary artery disease, but offered no opinion on how employment stress effected appellant's continuing episodic disabling angina.

By decision dated June 2, 1994, the Office rejected appellant's claim finding that appellant's claimed condition was not causally related to his injury. The Office clarified its holding in an incorporated memorandum, finding that appellant had several preexisting risk factors and had preexisting coronary artery disease, that Dr. Brancato stated that no known study had proved that stress caused new atherosclerotic coronary artery disease and that Dr. Brancato's opinion constituted the weight of the medical evidence, because he gave rationale for his conclusion that stress was not the cause or aggravation of atherosclerotic heart disease. The Office did not address the causation of appellant's disabling angina attacks.

By report dated August 2, 1994, Dr. N. Patrick Madigan, a Board-certified cardiologist, discussed appellant's underlying coronary artery disease and postulated that his multiple episodes of chest pain following the 1991 angioplasty, were due to vasospastic angina (coronary artery spasm),¹ and noted that job stress in 1991 could have produced coronary artery plaque rupture and vasospastic angina. He indicated that the October 1991 stress thallium scan appellant underwent did not show any evidence of fixed stenosis (vessel lumina reduction or obstruction by fixed lesion atherosclerosis) but that "clearly this test was not designed for evaluation of vasospastic angina." Dr. Madigan further noted that a December 1991 treadmill test, was normal with only fleeting atypical chest discomfort which disappeared with increasing exercise and that the test was stopped only due to fatigue. He noted that in 1993 and 1994 appellant experienced episodes of chest discomfort, with somewhat atypical symptoms, which resolved without evidence of ischemia. Dr. Madigan recommended that appellant return to work but that he avoid direct custodial duties, which involved stress and exposure to potentially dangerous situations such as an attack, as these situations could "invoke a vasospastic reaction of his coronary arteries."

Appellant requested review of the record by the Branch of Hearings and Review and by decision dated March 27, 1995, the hearing representative affirmed the prior decision finding that Dr. Brancato's opinion constituted the weight of the medical evidence, on whether stress caused or aggravated appellant's underlying coronary artery disease, which Dr. Brancato had concluded in 1992 was not significant in appellant's case. The hearing representative did not address the causation of appellant's continuing disabling angina. The hearing representative found that Dr. Madigan's opinions were speculative.

¹ As opposed to fixed lesion atherosclerotic angina.

By letter dated June 22, 1995 appellant, through his representative, requested reconsideration of the hearing representative's decision.

On July 10, 1995 the Office received a February 9, 1993 report, from Dr. Mary Jane Stackowski, an employing establishment physician, which noted that appellant had a 1991 angioplasty for a 60 percent blockage of the left anterior descending coronary artery, which was successful and resulted in reduction of the arterial compromise to 20 percent. She further noted that in December 1991, no further stenosis had occurred and that a stress test at that time was normal. Dr. Stackowski noted that because stress, physical activity and emergencies increase the likelihood of arterial spasm, appellant should be placed in a less stressful position.

By decision dated October 6, 1995, the Office denied modification of the prior decision finding that the evidence submitted was insufficient to warrant modification.

The Board finds that appellant has failed to establish that he experienced disabling episodic angina in the performance of duty, causally related to factors of his federal employment.

An award of compensation may not be based on surmise, conjecture, speculation, or appellant's belief of causal relationship.² A person who claims benefits under the Federal Employees' Compensation Act³ has the burden of establishing the essential elements of his claim.⁴ Appellant must establish that he sustained an injury, in the performance of duty and that his disability resulted from such injury.⁵ As part of this burden, a claimant must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relationship.⁶ Rationalized medical opinion evidence is medical evidence that includes a firm diagnosis and a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. Such an 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 appellant.⁷ Medical conclusions based on inaccurate or incomplete histories are of little probative value,⁸ as are medical conclusions unsupported by sound rationale.⁹ Medical opinions which are speculative are of diminished

² *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979); *Miriam L. Jackson Gholikely*, 5 ECAB 537, 538-39 (1953).

³ 5 U.S.C. §§ 8101-8193 (1974).

⁴ *Nathaniel Milton*, 37 ECAB 712, 722 (1986); *Paul D. Weiss*, 36 ECAB 720, 721 (1985).

⁵ *Daniel R. Hickman*, 34 ECAB 1220, 1223 (1983).

⁶ *Mary J. Briggs*, 37 ECAB 578, 581 (1986); *Joseph T. Gulla*, 36 ECAB 516, 519 (1985).

⁷ *Id.*

⁸ See *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 (1987) (addressing factors that bear on the probative value of medical opinions)

⁹ *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 968 (1954).

probative value and are insufficient to support an appellant's claim.¹⁰ Appellant has not presented such positive, rationalized medical evidence in this case.

The Board finds that the medical evidence submitted by appellant, in support of his claim is not sufficiently rationalized and is speculative on the issue of whether his disabling angina attacks were due to vasospastic angina, that was possibly aggravated by factors of his employment. The February 5, 1993 medical progress note, was illegibly signed and was speculative in suggesting that appellant had spasm of his coronary arteries. Hence it is of diminished probative value. In his August 2, 1994 report, Dr. Madigan opined that appellant's multiple episodes of chest pain were possibly due to vasospastic angina. This opinion is also speculative and hence is of diminished probative value. Dr. Madigan noted that the testing appellant underwent was clearly not designed for evaluation of vasospastic angina. This statement does not confirm that appellant actually had vasospastic angina. Dr. Madigan recommended that appellant avoid stressful situations as such situations could invoke a vasospastic reaction of his coronary arteries. This statement was speculative and hypothetical, and hence was of diminished probative value. Dr. Stackowski noted that because stress, physical activity and emergencies increase the likelihood of arterial spasm, appellant should be placed in a less stressful position. This statement does not positively affirm that appellant was having problems with coronary arterial spasm, and discusses causation in general terms not specific to appellant's case. Hence it too is of diminished probative value.

As it is appellant's burden to establish his claim by positive, rationalized medical evidence, and as the medical evidence submitted supporting that appellant had vasospastic angina and not fixed lesion atherosclerotic angina is all of diminished probative value, he has failed to meet his burden of proof to establish his claim.

¹⁰ *Philip J. Deroo*, 39 ECAB 1294 (1988).

Consequently, the decisions of the Office of Workers' Compensation Programs dated October 6 and March 27, 1995 are hereby affirmed.

Dated, Washington, D.C.
March 5, 1998

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member