

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RALPH E. PIERCE, JR. and DEPARTMENT OF TRANSPORTATION,
FEDERAL AVIATION ADMINISTRATION, TOLEDO EXPRESS AIRPORT,
Swanton, OH

*Docket No. 02-53; Submitted on the Record;
Issued August 1, 2002*

DECISION and ORDER

Before ALEC J. KOROMILAS, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant met his burden of proof to establish that his rheumatoid arthritis was caused or aggravated by factors of his federal employment.

On February 13, 2000 appellant, then a 40-year-old air traffic controller, filed an occupational disease claim alleging that the stress of his job and frequent changes in work shift causing irregular sleep patterns, precipitated, aggravated and accelerated his rheumatoid arthritis. He alleged that the onset of his rheumatoid arthritis symptoms was precipitated by an incident at work on April 27, 1994 when two aircraft under his control came within 100 feet of each other and, as a result, he was immediately disqualified and had to undergo retraining. Appellant stated that, following this incident, the stress of his job intensified and aggravated his condition. He indicated that he first became aware of his condition in February 1995.¹

By decision dated September 9, 2000, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that the medical evidence of record failed to establish that his rheumatoid arthritis and hip degeneration was caused or aggravated by factors of his employment.

By decision dated June 27, 2001, the Office denied modification of its September 9, 2000 decision.

¹ In addition to submitting medical evidence in support of his claim, appellant submitted copies of pages from medical articles and other articles concerning stress and rheumatoid arthritis. The Board has held that newspaper clippings, medical texts and excerpts from publications are of no evidentiary value in establishing the necessary causal relationship between a claimed condition and employment factors because such materials are of general application and are not determinative of whether the specifically claimed condition is related to the particular employment factors alleged by the employee. *See William C. Bush*, 40 ECAB 1064, 1075 (1989).

The Board finds that this case is not in posture for a decision due to an unresolved conflict in the medical opinion evidence.

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.² The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes 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. The opinion of the physician must be based on a complete factual and medical background of the claimant,³ must be one of reasonable medical certainty⁴ 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.⁵ 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. Neither the fact that the condition became apparent during a period of employment, nor the belief of appellant that the condition was caused by or aggravated by employment conditions is sufficient to establish causal relation.⁶

In a letter dated February 23, 2000, Dr. Nerial Y. Bernblum, a family practitioner, stated that appellant was diagnosed in 1994 with rheumatoid arthritis which had progressed to the point that he needed a hip replacement. He stated that appellant was engaged in a very stressful occupation. Dr. Bernblum stated:

“Evidence has been accumulating in the last few years to the connection between stress and morbidity [sickness] and it is hard for me not to connect [appellant's] stressful job with the rapid progression of his autoimmune disease.

“In conclusion, to the best of my professional opinion, the rapid progression of his rheumatoid arthritis is connected to his stressful job.”

In a report dated April 9, 2000, Dr. Edward Goldberger, a Board-certified internist specializing in rheumatology, stated that appellant's job was stressful and his level of stress

² See *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

³ See *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁴ See *Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁵ See *William E. Enright*, 31 ECAB 426, 430 (1980).

⁶ See *Manuel Garcia*, 37 ECAB 767, 773 (1986); *Juanita C. Rogers*, 34 ECAB 544, 546 (1983).

increased following the April 1994 incident. Shortly thereafter appellant's first symptoms of rheumatoid arthritis developed. Dr. Goldberger stated that he was not aware of the 1994 incident when he first began treating appellant in October 1994. He stated:

“There is a large body of literature describing the relation of stress in general and specific neurohormones to immune function and the pathophysiology of rheumatoid arthritis. These have not been completely defined, however, most practicing rheumatologist would agree in my opinion that physical and emotional stress can cause exacerbations of a chronic autoimmune disease such as rheumatoid arthritis and can probably accelerate the normal expected disease course. Thus, it is my opinion that it is more probable than not that [appellant's] rheumatoid arthritis was aggravated or accelerated by the stress of his occupation....”

In a report dated July 28, 2000, Dr. Goldberger stated that appellant had work-related rheumatoid arthritis that resulted in premature secondary hip degeneration. He stated:

“The factors of employment that would have caused and/or aggravated the occupational illness relate to effects of stress hormone levels on the immune system. The rheumatoid arthritis is characterized as an autoimmune condition in which inflammatory cells and chemical mediators perpetuate a destructive proliferative synovitis in multiple joints. This has resulted in advanced end-stage cartilage damage to [appellant's] hip joints that will necessitate hip surgery in the near future and will cause permanent disability. It is my medical opinion based on the literature and my experience in treating patients with rheumatic conditions over 12 years is that [appellant's] course (that is, resultant near destruction of his hip joints in the relatively brief five year time period from the onset of diagnosis of his disease to the present time) is somewhat unusual for rheumatoid arthritis and thus enhanced stress hormone levels could be contributory to this. However, this cannot be established by diagnostic testing.”

In a report dated August 15, 2000, Dr. Goldberger stated that the underlying cause of arthritis is not known but in the scientific community it was generally agreed that there is a combination of genetic or hereditary susceptibility with some type of environmental trigger often causing the disease. He stated that, among the environmental factors, stress has been implicated. Dr. Goldberger stated that other reasons besides employment factors could have triggered appellant's rheumatoid arthritis. He stated:

“At this time, it is impossible to point to specific clinical or laboratory findings indicating specific factors of [appellant's] employment other than the temporal association of his 'critical incident' [the 1994 near-collision of aircraft] and the onset of his rheumatoid arthritis symptoms as well as the very aggressive course of his disease which has damaged both of his hips in a period of a few years to the point of requiring surgery despite being on antirheumatic treatment.... So [appellant's] claim that job stress caused the symptoms or caused them to increase is difficult to prove given our current limitations in the understanding of the

disease, but also difficult to disprove in light of many of the studies generated regarding this illness.”

In a report dated September 5, 2000, Dr. Michael W. Lindamood, a Board-certified internist specializing in rheumatology and an Office referral physician, provided a history of appellant’s condition and findings on examination and diagnosed rheumatoid arthritis. He stated that appellant felt that he was under significant work stress but that there was no way to document that his work stress aggravated or accelerated his rheumatoid arthritis. Dr. Lindamood stated:

“It is accepted that stress in itself can aggravate pain and/or the perception of pain, however, there is absolutely no way to objectively quantify that. [Appellant] is concerned that the stress of an air traffic controller has been significant and he is also concerned that the poor sleep patterns, having to work different shifts is a stress to him.

“The cause of rheumatoid arthritis is not known. It has been suggested in the past that stress does bear relationship to rheumatoid arthritis, however, there is absolutely no scientific evidence that would indicate stress causes rheumatoid arthritis. There is also no evidence that stress aggravates or worsens rheumatoid arthritis, at least as it can be measured objectively. It is generally felt that the cause of rheumatoid arthritis may be multifactorial with the leading causes being genetic and some stimulus to the immune system. The cause of rheumatoid arthritis and likewise the worsening of rheumatoid arthritis cannot be objectively pointed to any specific factor.”

In an undated report received by the Office on March 10, 2001, Dr. Goldberger stated:

“There has been a large body of medical research examining the relationship of stress including neurohormones released under conditions of stress that can influence and in fact accelerate rheumatoid arthritis. The fact that these hormones accelerate rheumatoid arthritis is not speculative, what I previously meant in some of my responses was that it is not possible to quantify the amount of these hormones and their specific amount of contributions to joint damage in routine clinical practice.

“It is clear that [appellant’s] occupation, which includes work at any time in a 24-hour day, rapid decisions that involve maintaining air traffic control and responsibility of loss of life should mistakes be made, that there are the effects of stress hormones such as adrenaline and cortisol released that result in changes in heart rate and blood pressure that can be measured. It is clear that, over time, such stress can have a deleterious effect on the body’s ability to cope with an autoimmune process. There is also evidence that specific regulators of the immune system to counteract abnormal inflammatory responses are blunted.

“Thus, it is my opinion based upon the medical research including clinical and immunologic studies and my own experience as a rheumatologist caring for

patients with rheumatoid arthritis over the past 12 years that [appellant's] rheumatoid arthritis was accelerated and worsened by his occupation.”

Section 8123(a) of the Federal Employees' Compensation Act provides, in pertinent part:

“If there is disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination.”⁷

A conflict in the medical evidence was found between Dr. Goldberger, appellant's attending Board-certified internist specializing in rheumatology and the Office referral physician Dr. Lindamood, who is also a Board-certified internist specializing in rheumatology, as to whether appellant's rheumatoid arthritis was caused or aggravated by factors of his employment. The Office properly referred appellant, together with a statement of accepted facts and copies of the medical records, to Dr. Jerold W. Shagrin, a Board-certified internist specializing in rheumatology, for an impartial medical examination and evaluation in order to resolve the conflict.

Where a case is referred to an impartial medical specialist for the purpose of resolving a conflict, the opinion of such specialist, if sufficiently well rationalized and based on a proper factual and medical background, must be given special weight.⁸

In a report dated May 15, 2001, Dr. Shagrin provided a history of appellant's rheumatoid arthritis condition, noting that appellant had worked as an air traffic controller for 20 years and had an extreme amount of stress in his job. He noted that appellant was diagnosed with rheumatoid arthritis in 1995 which had progressively involved multiple joints, primarily the hip, but also the hands, feet and, at times, the shoulder. Dr. Shagrin stated that the record reflected that appellant was able to perform his job without difficulty for the most part but experienced a great deal of stress at times which had caused appellant to have trouble sleeping. He provided findings on examination that confirmed rheumatoid arthritis and stated:

“The only indications that [appellant's] rheumatoid arthritis has worsened over time is from the medical records and also [his] history. Initially, a few joints were involved and over the last five or six years, he has had involvement of multiple joints. He also has had progressive changes in his hips which have required surgery. It is impossible to say whether or not this progression is to be expected since the progression of rheumatoid arthritis is extremely variable and unpredictable.

“I discussed [specific work factors] with [appellant]. He does feel that he is under significant stress from work and at times his arthritis does flare-up. It is my

⁷ 5 U.S.C. § 8123(a); see *Talmadge Miller*, 47 ECAB 673, 680 (1996); *Gertrude T. Zakrajsek (Frank S. Zakrajsek)*, 47 ECAB 770, 773 (1996); *James P. Roberts*, 31 ECAB 1010 (1980).

⁸ See *Juanita H. Christoph*, 40 ECAB 354, 360 (1988); *Nathaniel Milton*, 37 ECAB 712, 723-24 (1986).

understanding that circumstances do not always cause an exacerbation of his disease.

“Even though [appellant] states that certain work factors definitely cause stress to increase, there is no scientific proof to my knowledge that this causes an acceleration of the underlying disease. It also does not cause bony x-ray changes. However, what usually occurs is that when certain factors at work, being either physical or mental, do occur there may be marked exacerbation of the symptoms, causing a ‘worsening clinical condition to occur.’ [Appellant] may be functionally worse and suffer a definite increase in morbidity. This, however, at times can be reversed and controlled by decreasing the environmental stress and also can be decreased by a change in the medical regimen.

“It is, therefore, my opinion that permanent damage that is irreversible cannot be precipitated by mental stress and was not precipitated by [appellant’s] occupation. What I feel does occur, as I mentioned above, is that mental stress certainly can cause a clinical worsening of the disease to such an extent where the claimant is unable to perform many functions of his occupation and of daily life.”

By letter dated June 4, 2001, the Office requested a supplemental report from Dr. Shagrin. The Office noted that he stated that appellant’s rheumatoid arthritis was not accelerated or permanently impacted in any way by employment factors but that it appeared from his report that the condition was temporarily aggravated or exacerbated with a temporary increase in clinical symptoms which would impact the ability to work for short periods. The Office asked, if appellant had a temporary aggravation, for what period of time would such aggravation be expected to last before appellant returned to a baseline condition if he were off work and whether this would be a fairly quick response of days to weeks or more. The Office asked whether any period of flare-up would be self-contained, *i.e.*, and the result of a particular period of exposure and particular factors at any time independent of any previous temporary aggravation.

In a supplemental report dated June 20, 2001, Dr. Shagrin stated that appellant’s temporary aggravation of his preexisting condition would have had a temporary increase in clinical symptoms that would impact his ability to work for short periods. He stated that, since it was a temporary aggravation, the period of time expected to last before returning to a baseline condition could not be determined but that it could be several months. Dr. Shagrin stated: “I feel that unless the flare-ups occurred continuously, each one would be self-contained, the result of a particular incident. They would not be cumulative in nature.”

The Board finds that the opinion of the impartial medical specialist, Dr. Shagrin, is not sufficient to resolve the conflict in the medical opinion evidence.

In his May 15 and June 20, 2001 reports, Dr. Shagrin stated his opinion that appellant did not sustain any permanent worsening of his rheumatoid arthritis due to his job. However, he did opine that factors at work, either physical or mental, could have caused temporary aggravation of his rheumatoid arthritis condition, possible lasting up to several months. As his opinion is couched in speculative terms, it is not sufficient to resolve the conflict in the medical evidence.

On remand of the case, the Office should refer appellant, together with a statement of accepted facts and the case record, to another impartial medical specialist, for an evaluation of whether appellant's rheumatoid arthritis was caused or aggravated by any specific work factors or work incidents, and, if so, the time periods involved. Following such further development of the factual and medical evidence as the Office deems necessary, it should then issue an appropriate decision.

The decision of the Office of Workers' Compensation Programs dated June 27, 2001 is set aside and the case is remanded for further development consistent with this decision.

Dated, Washington, DC
August 1, 2002

Alec J. Koromilas
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member