

**United States Department of Labor  
Employees' Compensation Appeals Board**

---

**RICHARD J. RUSHFORTH, Appellant** )

**and** )

**DEPARTMENT OF AGRICULTURE, FOREST  
SERVICE, Willows, CA, Employer** )

---

**Docket No. 04-1950  
Issued: October 14, 2005**

*Appearances:*  
*Richard J. Rushforth, pro se*  
*Thomas G. Giblin, Esq., for the Director*

Oral Argument September 20, 2005

**DECISION AND ORDER**

Before:

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

**JURISDICTION**

On August 2, 2004 appellant filed a timely appeal from a decision of the Office of Workers' Compensation Programs dated June 7, 2004 which found that the cerebrovascular accident he sustained in April 2002 was not causally related to factors of his federal employment. 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 appellant has met his burden of proof to establish that the cerebrovascular accident that he sustained on April 25, 2002 was causally related to factors of his federal employment.

**FACTUAL HISTORY**

On December 10, 2002 appellant was a 50-year-old fire management specialist with the Fish & Wildlife Service who had previously been a firefighter with the employing

establishment.<sup>1</sup> He filed an occupational disease claim alleging that a cerebrovascular accident (stroke) sustained on April 25, 2002 was caused by smoke inhalation and stress in his federal employment.

Appellant submitted a January 23, 2003 report from Dr. Bruce Hoang, an osteopathic physician and fellow in occupational medicine, and Dr. Stephen Born, Board-certified in occupational medicine. They noted his 24-year work history as a firefighter, his 5-pack year smoking history and his report of the stroke and subsequent hospitalization in April 2002. Dr. Hoang and Dr. Born noted their review of medical records and provided findings on physical examination. They opined that due to work exposure to smoke, heat, stress and other toxic substances, firefighters were at increased risk of experiencing heart and lung disease, but noted that little information was available regarding the correlation between firefighting and stroke, although a review of the medical literature evidenced an increased risk of stroke caused by tobacco use and exposure to environmental tobacco smoke. Dr. Hoang and Dr. Born advised that appellant's tobacco use played a significant role in his stroke and, while unable to conclude that his occupation as a firefighter more likely than not contributed to the stroke, they deduced that his exposure to large amounts of smoke as a firefighter contributed to the stroke. They noted that further research was needed to investigate the relationship between firefighters and cerebrovascular accidents.

By decision dated June 11, 2003, the Office denied the claim, finding that it should be filed with the employing establishment, not his current employer. On July 2, 2003 appellant filed a second claim through the employing establishment and requested a hearing.

At the hearing, held on February 24, 2004, appellant addressed his years of wildfire smoke exposure and stated that this claim was for his stroke only. He subsequently submitted medical evidence regarding his April 2002 hospital admission. In an April 5, 2004 report, Dr. Born addressed his review of medical literature, again noting that firefighters were at increased risk of having heart and lung disease. Dr. Born advised that woodland fires contained particulates and that exposure to particulate matter enhanced atherosclerosis in experimental animals. He concluded that appellant's exposure to smoke as a firefighter for 24 years contributed to his stroke, "based on current scientific evidence that links long-term exposure to particulates with atherosclerosis."

By decision dated June 7, 2004, an Office hearing representative affirmed the June 11, 2003 decision as modified, finding that appellant established that he was exposed to smoke but that the medical evidence of record did not establish that this exposure caused his stroke.

### **LEGAL PRECEDENT**

Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.<sup>2</sup> Rationalized medical evidence is medical

---

<sup>1</sup> By letter dated March 4, 2003, appellant informed the Office that he had changed jobs on April 8, 2002.

<sup>2</sup> *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

evidence which includes a physician's rationalized medical 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, 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 the claimant.<sup>3</sup> Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.<sup>4</sup>

### ANALYSIS

The issue in this case is whether appellant has established that the cerebrovascular accident he sustained on April 25, 2002 was causally related to factors of his federal employment. The Office accepted that he was exposed to smoke during his federal employment as a firefighter; however, the medical evidence of record did not establish that this smoke exposure caused the stroke he sustained in April 2002.

Appellant submitted medical evidence regarding his April 2002 hospital admission. These reports, however, do not contain any opinion regarding the cause of appellant's condition. The Board has long held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.<sup>5</sup> Appellant also submitted two medical reports from Dr. Born. In both reports, he advised that firefighters were at increased risk of having heart and lung disease and that tobacco smoke had been shown to cause an increased risk of stroke. While he noted in the January 23, 2003 report, that little information was available regarding the correlation between firefighting and stroke, in an April 5, 2004 report, Dr. Born noted that further review of the medical literature found that appellant's exposure to smoke in his 24-year history as a firefighter contributed to his stroke "based on current scientific evidence that links long-term exposure to particulates with atherosclerosis."

While Dr. Born's reports lack sufficient medical rationale to discharge appellant's burden of proof to establish that the April 25, 2002 stroke was causally related to his 24 years of smoke exposure as a wild land firefighter, this does not mean that they may be completely disregarded by the Office. It merely means that their probative value is diminished. Dr. Born examined appellant, reviewed his medical records and extensive medical literature and concluded that his federal career as a firefighter contributed to his stroke. In the absence of medical evidence to the contrary, Dr. Born's reports are sufficient to establish a *prima facie* case such that the Office should further develop the medical evidence.<sup>6</sup>

---

<sup>3</sup> *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

<sup>4</sup> *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

<sup>5</sup> *Willie M. Miller*, 53 ECAB 697 (2002).

<sup>6</sup> *Jimmy A. Hammons*, 51 ECAB 219 (1999); *John J. Carlone*, 41 ECAB 354 (1989).

It is well established that proceedings under the Federal Employees' Compensation Act are not adversarial in nature and while the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence.<sup>7</sup> The case will be remanded to the Office to further develop the medical evidence to determine if appellant's stroke was caused or contributed to by his federal employment. After this and such further development as deemed necessary, the Office shall issue an appropriate decision.

**CONCLUSION**

The Board finds this case is not in posture for decision regarding whether appellant's April 2002 stroke was caused by factors of his federal employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated June 7, 2004 be vacated and the case remanded to the Office for further proceedings consistent with this opinion of the Board.

Issued: October 14, 2005  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Willie T.C. Thomas, Alternate Judge  
Employees' Compensation Appeals Board

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

---

<sup>7</sup> See Jimmy A. Hammons, *supra* note 6.