

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

M.P., claiming as widow of C.P., Appellant)	
)	
and)	Docket No. 10-890
)	Issued: November 3, 2010
U.S. POSTAL SERVICE, POST OFFICE,)	
Falmouth, MA, Employer)	
)	

Appearances:
Greg Dixon, for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

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

JURISDICTION

On February 3, 2010 appellant filed a timely appeal from a September 30, 2009 merit decision of the Office of Workers' Compensation Programs denying her claim for survivor benefits. 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 established that the employee's death was causally related to his federal employment.

FACTUAL HISTORY

On December 14, 2008 appellant filed a claim for survivor benefits alleging that the death of her 89-year-old husband on December 3, 2008 was causally related to his accepted 1974 employment injury. The Office accepted that the employee sustained an acute myocardial infarction on May 27, 1974 resulting from the performance of his federal employment. The employee's preexisting arteriosclerosis condition was not accepted as employment related.

A December 9, 2008 death certificate listed that the employee died on December 3, 2008. The cause of death was listed as cerebral bleeding as a consequence of coumadin therapy. Other conditions of coronary artery disease, dementia, atrial fibrillation and peripheral vascular disease were listed as contributing to death, but not the underlying cause of death. This death certificate was signed by Dr. Adnan Sammour, Board-certified in internal medicine.

In an attending physician's report dated December 12, 2009, Dr. Sammour explained that the employee had been admitted to hospice care on November 28, 2008 and had died on December 3, 2008 due to intraventricular bleeding secondary to atherosclerosis/coronary artery disease. He answered not applicable in response to the form question "[w]hat history of injury or employment-related disease was given to you?"

On January 9, 2009 Dr. Sammour reported that the employee had suffered from coronary artery disease, atherosclerosis and Alzheimer's disease dementia. The employee was admitted to a hospital on November 26, 2008 with intracerebral hemorrhage. Given his history of coronary artery disease and dementia, comfort measures were chosen and the employee was discharged for hospice care.

In a January 12, 2009 report, Dr. Sherif Z. Mehanny, a cardiologist, reported that the employee had been seen in August 2008. He related that the employee experienced worsening aortic stenosis and developed shortness of breath from systolic dysfunction "in the phase of previous MI [myocardial infarction]." Dr. Mehanny concluded that the employee had died due to the progression of multiple medical conditions, including total occlusion of the right carotid artery, previous stroke, dementia and the progression of heart disease.

On May 15, 2009 the district medical adviser reviewed the case record. He was asked to clarify whether the employee's death was causally related to the accepted work injury. The district medical adviser reported that the employee's death was not caused by his employment injury. He noted that the employee had sustained an acute myocardial infarction in 1974, following which he underwent bypass surgery and recovered. The employee suffered complications from advanced atherosclerosis in subsequent years, including carotid occlusive disease, peripheral arterial occlusive disease, stroke and proximal atrial fibrillation. The employee was treated with coumadin for these conditions. On November 26, 2008 the employee developed a brain bleed due to coumadin and died on December 3, 2008.

By decision dated September 30, 2009, the Office denied appellant's claim. It found that the medical evidence of record did not establish the causal relationship between the employee's death and his accepted myocardial infarction of 1974.

LEGAL PRECEDENT

The United States shall pay compensation for the disability or death of an employee resulting from personal injury sustained while in the performance of his duty.¹

Appellant has the burden of proving by the weight of the reliable, probative and substantial evidence that the employee's death was causally related to his employment. This burden includes the necessity of furnishing rationalized medical opinion evidence of a cause and effect relationship, based on a complete factual and medical background, showing causal relationship. The opinion of the physician must be one of reasonable medical certainty and must be supported by medical rationale.²

ANALYSIS

The Office accepted that the employee sustained an acute myocardial infarction on May 27, 1974 causally related to factors of his federal employment. The employee was in receipt of compensation benefits for this condition at the time of his death. The receipt of compensation for total disability for work is not proof of the fact or sufficient to raise a presumption of a causal relation between an employee's death and the accepted condition. Such an issue is medical in nature and must be resolved through probative medical opinion evidence.³ Appellant has not met her burden of proof in this case.

The medical evidence of record establishes that the employee died on December 3, 2008 due to cerebral bleeding caused by coumadin therapy. This cause of death was verified by the treating physician, Dr. Sammour, who signed the death certificate. While the medical evidence supports a finding that the employee's health declined in the years preceding his death due complications of his coronary artery disease and atherosclerosis, the Office only accepted his 1974 myocardial infarction as causally related to his federal employment. At the time of his death, the employee suffered from carotid occlusive disease, peripheral arterial occlusive disease, stroke, and proximal atrial fibrillation, and was on coumadin therapy. None of the physicians of record have offered any medical explanation as to how the employee's death was due to the myocardial infarction he sustained in 1974. Dr. Sammour indicated in the December 12, 2009 attending physician's report that the employee's employment injury was "not applicable" to the cause of his death.

Appellant did not submit sufficient medical evidence to meet her burden of proof. The Board finds the Office properly denied the claim for compensation.

¹ 5 U.S.C. § 8133 (compensation in case of death).

² *Lois E. Culver*, 53 ECAB 412 (2002).

³ *Bertha J. Soule (Ralph G. Soule)*, 48 ECAB 314 (1997).

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that the employee's death on December 3, 2008 was causally related to his accepted May 27, 1974 myocardial infarction.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated September 30, 2009 is affirmed.

Issued: November 3, 2010
Washington, DC

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

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

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