United States Department of Labor
Employees' Compensation Appeals Board

R.F., Appellant	)	
and	)	**Docket No. 12-1130**
	)	**Issued: December 18, 2012**
DEPARTMENT OF THE TREASURY, INTERNAL REVENUE AGENCY, Boston, MA, Employer	)	

Appearances:
Alan J. Shapiro, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
COLLEEN DUFFY KIKO, Judge
PATRICIA HOWARD FITZGERALD, Judge
ALEC J. KOROMILAS, Alternate Judge

JURISDICTION

On April 30, 2012 appellant, through her attorney, filed a timely appeal of the March 13, 2012 decision of the Office of Workers' Compensation Programs (OWCP) which denied appellant's claim for a traumatic injury. Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

ISSUE

The issue is whether appellant has met his burden of proof in establishing that he sustained a traumatic injury in the performance of duty.

FACTUAL HISTORY

On November 1, 2011 appellant, then a 67-year-old revenue agent, filed a traumatic injury claim, alleging that, on October 18, 2011, he developed chest pain and shortness of breath

[1] 5 U.S.C. §§ 8101-8193.

after a fire evacuation drill at the employing establishment building. He stopped work on October 18, 2011.

On November 10, 2011 OWCP advised appellant of the type of evidence needed to establish his claim. It particularly requested that he submit a physician's reasoned opinion addressing the relationship of his claimed condition and specific work factors.

Appellant submitted a hospital admission dated October 18 to 24, 2011, where he was treated for chest pain which began after a fire drill at work. He reported chest pain eight weeks earlier that resolved without treatment. Appellant underwent a stress test which revealed significant shortness of breath at the end of the procedure with mild transient ischemia. An electrocardiogram was negative for ischemia. The diagnostic scans revealed mild ischemia involving the anterior wall and anterior septum. Appellant came under the treatment of Dr. Douglas E. Drachman, a Board-certified cardiologist, who recommended a cardiac catheterization given appellant's multiple risk factors and ischemia on stress. Dr. Drachman diagnosed acute coronary syndrome, gastroesophageal reflux disease, coronary arteriosclerosis, essential hypertension, hyperlipidemia, depressive disorder, anxiety, seizure disorder, cerebrovascular accident and diabetes mellitus. Also submitted was a note from a nurse practitioner who treated appellant from October 19 to 24, 2011 and advised that appellant could return to work on November 14, 2011.

On December 12, 2011 OWCP denied appellant's claim on the grounds that the medical evidence did not demonstrate that the claimed medical evidence was causally related to the established work-related events.

In a January 23, 2012 appeal request form, appellant requested reconsideration. In a separate statement, he asserted that he developed acute coronary syndrome from overexertion when he was evacuated from the employing establishment. Appellant submitted emergency room records from October 18 to 24, 2011, previously of record. He submitted a November 9, 2011 report from Dr. Robert A. Hughes, a Board-certified internist, who noted that appellant was unable to work from November 14 to 21, 2011 pending a follow-up appointment with a cardiologist. Appellant submitted nursing notes that reported his hospitalization from October 19 to 21, 2011 and from November 20 to 23, 2011 for a cardiac condition. A December 2, 2011 report from Dr. Drachman advised that appellant was hospitalized from October 18 to 24, 2011 for a heart condition. He indicated that appellant underwent stress tests on October 19 and 24, 2011 and a cardiac catheterization on October 20, 2011. Dr. Drachman noted that appellant presented on October 18, 2011 with symptoms of acute coronary syndrome and underwent a cardiac catheterization and was found to have underlying coronary artery disease and was treated with coronary stenting. He advised that appellant's cardiac risk factors included hypertension, dyslipidemia and prediabetic state which likely precipitated the acute coronary event. Dr. Drachman indicated that, "on the day of admission, he had been working in his office. A fire alarm sounded, requiring appellant to walk down five flights of stairs, then an additional block on the street. During this process, he developed chest pain, prompting him to present to the hospital where he was identified to have acute coronary syndrome." Dr. Drachman opined that "the stress and exertion following the sounding of the fire alarm -- superimposed on the preexisting conditions of hypertension, dyslipidemia and prediabetes -- likely precipitated the acute coronary event."

By decision dated March 13, 2012, OWCP denied modification of the prior decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of establishing the essential elements of his or her claim including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was filed within the applicable time limitation of FECA, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.[2]

To determine whether an employee actually sustained an injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.[3] The second component of fact of injury is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability, claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.[4]

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, 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.[5] The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.[6]

ANALYSIS

In the instant case, it is not disputed that appellant worked as a revenue agent and that, on October 18, 2011, he walked down five flights of stairs and an additional block after a fire evacuation at the employing establishment. It is also not disputed that he was diagnosed with acute coronary syndrome. However, appellant has not submitted sufficient medical evidence to establish that his acute coronary syndrome was causally related to the October 18, 2011 work incident. On November 10, 2011 OWCP advised him of the type of medical evidence needed to

[2] *Gary J. Watling*, 52 ECAB 357 (2001).

[3] *Michael E. Smith*, 50 ECAB 313 (1999).

[4] *Id*.

[5] *Leslie C. Moore*, 52 ECAB 132 (2000).

[6] *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value); *Jimmie H. Duckett*, 52 ECAB 332 (2001).

establish his claim. Appellant did not submit a rationalized medical report from a physician sufficiently explaining how the October 18, 2011 incident caused or aggravated a diagnosed medical condition.

Appellant was treated by Dr. Drachman from October 18 to 24, 2011 who diagnosed acute coronary syndrome, gastroesophageal reflux disease, coronary arteriosclerosis, essential hypertension, hyperlipidemia, depressive disorder, anxiety, seizure disorder, cerebrovascular accident and diabetes mellitus. On December 2, 2011 Dr. Drachman advised that appellant presented on October 18, 2011 with symptoms of acute coronary syndrome and underwent a cardiac catheterization and coronary stenting and was found to have underlying coronary artery disease. Appellant reported that he had been working when a fire alarm sounded, requiring him to walk down five flights of stairs, then an additional block on the street. During this process, he developed chest pain which was identified to have acute coronary syndrome. Dr. Drachman opined that the stress and exertion following the fire alarm superimposed on the preexisting conditions of hypertension, dyslipidemia and prediabetes "likely" precipitated the acute coronary event. The Board notes that, although Dr. Drachman's report provides some support for causal relationship, it is insufficient to establish that the claimed acute coronary syndrome was causally related to his employment duties. At best, this report provides only speculative support for causal relationship as Dr. Drachman qualifies his support by noting that appellant's employment "likely" caused his condition. Dr. Drachman provided no medical reasoning explaining his opinion on causal relationship. Therefore, this report is insufficient to meet appellant's burden of proof.[7] The need for medical reasoning is particularly important where he had underlying coronary artery disease.

Appellant submitted a November 9, 2011 report from Dr. Hughes who noted that appellant was unable to work from November 14 to 21, 2011 pending a follow-up appointment with a cardiologist. However, Dr. Hughes' report is insufficient to establish the claim as the physician did not specifically address whether appellant's employment activities had caused or aggravated a diagnosed medical condition.[8]

Appellant submitted a hospital admission prepared by a nurse practitioner dated October 18 to 24, 2011. The Board has held that treatment notes signed by a nurse are not considered medical evidence as this provider is not a physician under FECA.[9] Thus, this evidence is insufficient to establish the claim.

Other medical reports submitted by appellant, such as reports of diagnostic testing including an electrocardiogram and diagnostic scans are insufficient to establish the claim as this report did not provide an opinion on the causal relationship between appellant's job and his diagnosed coronary artery disease.

[7] Medical opinions that are speculative or equivocal in character are of diminished probative value. *D.D.*, 57 ECAB 734 (2006).

[8] *A.D.*, 58 ECAB 149 (2006) (medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

[9] *See David P. Sawchuk*, 57 ECAB 316 (2006) (lay individuals such as physician's assistants, nurses and physical therapists are not competent to render a medical opinion under the FECA); 5 U.S.C. § 8101(2) (this subsection defines a "physician" as surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law).

For these reasons, OWCP properly found that appellant did not meet her burden of proof in establishing her claim.

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 did not meet his burden of proof to establish that his claimed conditions were causally related to his employment.

ORDER

IT IS HEREBY ORDERED THAT the March 13, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 18, 2012
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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