

FACTUAL HISTORY

On August 30, 2008 appellant, then a 39-year-old clerk, alleged that injury to his right neck, right shoulder and right upper back with tingling and numbness in his right hand on that date. On January 21, 2009 OWCP accepted his claim for neck sprain, right trapezius sprain and right brachial neuritis.

By letter to OWCP dated March 23, 2009, appellant asked that his claim be accepted for depression secondary to his neck and right trapezius sprains.²

The record contains medical reports from Dr. Henry C. Eddleman, a Board-certified psychiatrist, dated March 27 to September 26, 2000. He attributed appellant's psychiatric treatment to stress at his workplace. In 2000, Dr. Christopher L. San Miguel Ph.D., a clinical psychologist, discussed appellant's need to plan for future employment possibilities due to his depression secondary to anger management and his inability to cope in a highly stressful work environment. He also noted prior problems with anger management.

In a September 23, 2008 letter, Dr. Ralph D'Auria, a Board-certified psychiatrist, stated that appellant was currently under medical treatment for a trauma he sustained during an on-the-job injury. At the present time, appellant's sleep patterns had been altered due to working the night shift necessitating medication from his psychiatrist. Dr. D'Auria opined that the disruption of appellant's sleeping patterns aggravated his musculoskeletal condition and requested that he be allowed the 7:30 a.m. to 4:00 p.m. shift to avoid exacerbations of his ongoing orthopedic problems.

Appellant was seen by Dr. Alisa S. Williams, a Board-certified psychiatrist, on September 12, 2008. Dr. Williams diagnosed him with depressive disorder and alcohol abuse, as well as anger issues. She noted that appellant believed that the employing establishment had not been accommodating of his physical problems and he objected to working the night shift because it made his sleep worse.

In a January 22, 2009 note, Dr. Alberto Gonzalez, a Board-certified psychiatrist, stated that appellant was a patient and was being treated for depression and anger management. Appellant was on antidepressant medications and was in therapy. Dr. Gonzalez recommended that appellant work the day shift to provide consistency with medication adherence in managing his depression. In a March 4, 2009 report, he noted that appellant was having difficulty remembering to take his medication. Dr. Gonzalez noted that appellant made no threats or comments regarding his job situation during group or individual sessions with his case manager.

In a decision dated June 17, 2009, OWCP denied appellant's claim for a consequential psychological condition as the medical evidence did not establish that it arose from the accepted injury of August 30, 2008.

² Appellant also requested that, a prior claim, OWCP File No. xxxxxx429, be amended to include a consequential claim for depression.

In a November 12, 2009 report, Dr. Gregory W. Melieste, a Board-certified psychiatrist, stated that appellant had been off work due to a combination of mental and physical disabilities. From a psychiatric perspective, appellant noted that he sustained problems with mood and agitation related in large part to job stress, including shift-hour changes and interactions with his supervisors. Appellant told Dr. Melieste that he was easily agitated when stressed and did not feel that his current treatment or medication would prevent violence if he were provoked. Dr. Melieste opined that appellant remained disabled from work due to concerns regarding potential violence to himself or others.

On November 19, 2009 OPM advised appellant that his disability retirement was approved. It noted that he was found disabled from his position as a clerk due to depression, left wrist fusion, post left scaphoid nonunion, bilateral shoulder tendinitis, right trapezius sprain and cervical radiculopathy with herniated disc.

On June 1, 2010 appellant requested reconsideration of the decision denying his claim for a consequential emotional condition. He contended that his accepted employment injury caused him to be stressed and depressed. Appellant noted that Dr. Melieste was his current mental health physician.

By decision dated August 16, 2010, OWCP denied modification of the June 17, 2009 decision. It found that the medical evidence did not establish that appellant had a psychological condition causally related to his work injury of August 30, 2008.

On January 24, 2011 appellant requested reconsideration. In a December 22, 2010 report, Dr. Melieste stated that appellant had several psychiatric visits with a diagnosis of major depression, recurrent, with psychotic features. He noted that it was appellant's contention that his work-related injuries, with persistent disability and chronic pain, were the proximal cause of his depression. Dr. Melieste stated: "In summary, while I am unable to authoritatively comment on his original injuries, [appellant] seems to have experienced significant symptoms of depression, paranoia and anger management issues as a direct consequence of his injuries and the management of his situation by his employer."

By decision dated April 22, 2011, OWCP denied modification of the August 16, 2010 decision.

LEGAL PRECEDENT

It is an accepted principle of workers' compensation law that, when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is deemed to arise out of the employment unless it is the result of an independent intervening cause.³ The basic rule is that a subsequent injury, whether an aggravation of the original injury or a new and distinct injury, is compensable if it is the direct and natural result of a compensable primary injury.⁴

³ *F.H.*, Docket No. 10-1267 (issued March 7, 2011); see *Carlos A. Marrero*, 58 ECAB 166 (2006).

⁴ *A. Larson, The Law of Workers' Compensation* § 10.01 (2005); *Charles W. Downey*, 54 ECAB 421 (2003).

ANALYSIS

Appellant alleged that he sustained an emotional condition as a consequence of his August 30, 2008 employment injury. The Board finds that he did not submit sufficient medical evidence to establish a consequential emotional condition and his accepted neck sprain, right trapezius sprain or brachial neuritis.

None of the medical reports of record provide a well-rationalized opinion by a physician explaining how the claimed emotional condition was caused or aggravated by the accepted injury. The medical reports of Drs. Eddleman and San Miguel from 2000, indicate that appellant had issues with depression and anger management since that time and are not directly relevant to the issue of disability commencing in 2008 or 2009. After the August 30, 2008 employment injury, Dr. Williams diagnosed depressive disorder, alcohol abuse and issues with anger. He noted that appellant contended that the employing establishment was not accommodating his physical conditions and that working the night shift made it worse. Dr. Williams did not provide an opinion addressing causal relationship; he merely repeated appellant's allegations. Dr. Gonzalez noted that appellant was being treated for depression and anger management and had difficulty remembering to take his medication. He made no correlation between appellant's emotional condition and the accepted employment injuries. Dr. Gonzalez noted that appellant made no comments regarding his job situation during group or individual sessions with his case manager. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship.⁵

Dr. D'Auria did not provide a narrative opinion that addressed appellant's emotion condition; he simply noted that appellant's sleep patterns were altered by working the night shift and that changing to the day shift would be useful to avoid exacerbation of his ongoing orthopedic problems.

Dr. Melieste stated that appellant was disabled from work due to a combination of mental and physical disabilities. He noted that, from a psychiatric perspective, appellant had problems with mood and agitation and a concern with regard to the potential for violence to himself and others. Dr. Melieste noted appellant's contention that his work injuries, with persistent disability and chronic pain, were the proximal cause of his depression. He noted that he was unable to authoritatively comment on appellant's accepted injuries and speculated that he experienced significant symptoms of depression, paranoia and anger management as a consequence of the situation with his employer. Dr. Melieste did not relate appellant's emotional condition specifically to the August 30, 2008 employment injury. His opinion relies in large part on appellant's statements without adequate rationale as to how his accepted conditions of neck sprain, right trapezius sprain and brachial neuritis contributed to his emotional conditions. Without medical rationale, Dr. Melieste's opinion is of diminished probative value.⁶ Medical opinions that are speculative or equivocal are of diminished probative value.⁷

⁵ *S.E.*, Docket No. 08-2214 (issued May 6, 2009); *Conard Hightower*, 54 ECAB 796 (2003).

⁶ *T.M.*, Docket No. 08-974 (issued February 6, 2009); *Mary A. Ceglia*, 55 ECAB 626 (2004).

⁷ *R.B.*, Docket No. 11-1910 (issued March 27, 2012).

Appellant noted that OPM approved a disability retirement in its November 19, 2009 letter. OPM found that, due to numerous medical issues, including his emotional condition, he was disabled from employment. It did not reach any conclusion with regard to the cause of appellant's disabling conditions, including his emotional condition. It is well established that a finding of disability under a federal statute other than FECA is not determinative on that question under FECA.⁸

Where a claimant claims that a condition not accepted by OWCP was due to his employment injury, he bears the burden of proof to establish that such condition is causally related to the employment injury through the submission of rationalized medical evidence.⁹ The medical evidence of record is insufficient to discharge appellant's burden.

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 has not established that he sustained an emotional condition as a consequence of the August 30, 2008 employment injuries.

⁸ See *John E. Cannon*, 55 ECAB 585 (2004).

⁹ *JaJa K. Asaramo*, 55 ECAB 200, 204 (2004).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 22, 2011 is affirmed.

Issued: June 19, 2012
Washington, DC

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

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

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