

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ABEL E. CISNEROS, JR. and DEPARTMENT OF LABOR,
MINE SAFETY & HEALTH ADMINISTRATION, Vacaville, Calif.

*Docket No. 97-470; Submitted on the Record;
Issued November 17, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant has established that his myocardial infarction was causally related to factors of his federal employment.

In the present case, appellant, a mine inspector, sustained a heart attack while driving to an inspection site on September 16, 1993. The Office of Workers' Compensation Programs initially denied appellant's claim by decision dated March 28, 1994 on the grounds that the evidence of record failed to establish that the claimed condition occurred in the performance of duty. Appellant thereafter requested a hearing before an Office hearing representative. By decision dated May 26, 1995, the Office hearing representative found that appellant had established the occurrence of several employment factors which would be considered to be within the performance of duty, however, that the medical evidence of record failed to support that appellant's heart condition was causally related to these factors of his federal employment. The hearing representative specifically found:

“Of the various situations now deemed to have in fact occurred, those incurred by the claimant in the performance of his federal duties were his frequent dealings with the mine operators, and in particular the incident which arose at the Bouquet Canyon Mine the week prior to the claimant's myocardial infarct. It is additionally accepted that the claimant worked two 15-hour days in the week preceding the development of the infarct, and that at the time of the infarct the claimant was in the performance of his federal duties operating a government vehicle enroute to another mine inspection when he missed his exit. It is further accepted that the claimant was required to operate out of a suitcase at times for four days out of a five-day workweek.”

The Board has given careful consideration to the issue involved and the entire case record. The Board finds that the decision of the Office hearing representative, dated and finalized on May 26, 1995 is in accordance with the facts and law in this case and hereby adopts the findings and conclusions of the hearing representative.

Appellant thereafter requested reconsideration and submitted additional reports from his treating physicians. The Office denied modification, after merit review, on October 3, 1996.

The Board finds that this case is not in posture for decision.

The medical evidence submitted by appellant with his request for reconsideration included reports from Dr. Richard M. Green, a Board-certified cardiologist; Dr. Douglas R. Martel, a Board-certified cardiologist, and Dr. Aubrey Dobbs, Board-certified in internal medicine.

In his report dated March 29, 1996, Dr. Green stated that appellant, as a mine inspector, had been under a great deal of mental and physical stress in the days and hours prior to his myocardial infarction. He stated that appellant had some particularly troublesome tense situations involving his work with the Bouquet Canyon Mine the week preceding his myocardial infarction and had been working extremely long 15-hour days immediately prior to his heart attack. He indicated that the morning of appellant's admission to the hospital, prior to the onset of chest pain, appellant was traveling to his next mine inspection appointment and apparently was under time pressure, missing a freeway exit, when he began to experience symptoms of myocardial infarction. Dr. Green explained that although appellant had a substrate for coronary artery disease in view of his history of diabetes, it was well known and accepted that stress was a provocative factor in the precipitation of myocardial infarction. Dr. Green stated that the neurohormonal influences that a patient may be under when experiencing either physical or emotional stress may be the provoking factor causing a stable atherosclerotic plaque to become unstable with development of a thrombus and subsequently the sequence which results in myocardial infarction. Dr. Green concluded that "it is my opinion that [appellant] was under such stress for the reasons described above, and there is a definite causal relationship between these events and the subsequent myocardial infarction that he experienced."

In a report dated January 9, 1996, Dr. Martel stated that he had reviewed the hearing representative's decision in pertinent part and, if accepted that the stresses listed in the hearing representative's decision were true, then it was apparent that appellant was under significant stress in the one to two weeks prior to his initial myocardial infarction and that this stress aggravated his underlying coronary artery disease.

In a report dated April 3, 1996, Dr. Dobbs stated that prior to his initial myocardial infarction in September 1993 appellant had been under considerable stress, including several dealings with mine operators at the Bouquet Canyon Mine, having worked two 15-hour days in the week preceding the infarct, and having missed an exit on the freeway on his way to another mine, which increased his stress; in addition to the stress of excessive travel and living out of a suitcase. Dr. Dobbs stated that there was no definitive answer as to whether these stressors caused or contributed to appellant's myocardial infarction. He noted however that with increased stress, one can have increased blood pressure, increased work load and increased demand on the heart. Dr. Dobbs explained that if the increased demand is great enough and the structure of the heart is unable to provide adequate bloodflow to the heart, myocardial infarction could result.

Proceedings under the Federal Employees' Compensation Act¹ are not adversarial in nature, nor is the Office a disinterested arbiter. While the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence. The Office has an obligation to see that justice is done.²

Although none of these reports from appellant's physicians contain sufficient rationale to discharge appellant's burden of proving by the weight of reliable, substantial, and probative evidence that his myocardial infarction was causally related to the accepted factors of his federal employment, they raise an uncontroverted inference of causal relationship sufficient to require further development of the case record by the Office.³ Moreover, neither an Office medical adviser nor an Office medical consultant reviewed appellant's medical record following his submission of medical evidence with his request for reconsideration; there is no opposing medical evidence of record.

On remand, the Office should refer appellant, together with a statement of accepted facts which describes the accepted factors of employment, and the medical evidence of record to an appropriate Board-certified specialist or specialists for evaluation and a rationalized opinion as to the relationship between appellant's myocardial infarction and the accepted factors of his federal employment. After such further development as is deemed necessary, the Office shall issue an appropriate decision.

The decision of the Office of Workers' Compensation Programs dated October 3, 1996 is set aside. The case is remanded for further proceedings consistent with this decision of the Board.

Dated, Washington, D.C.
November 17, 1998

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

¹ 5 U.S.C. §§ 8101-8193.

² *Gary L. Fowler*, 45 ECAB 365 (1994).

³ *See Horace Langhorne*, 29 ECAB 820 (1978).