

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LUCILLE YOUNG, claiming as widow of JOHN D. YOUNG and
DEPARTMENT OF THE NAVY, U.S. MARINE CORPS, Cherry Point, NC

*Docket No. 99-1601; Submitted on the Record;
Issued August 16, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof in establishing that the death of the employee, her husband, was causally related to his employment-related myocardial infarction.

On March 14, 1973 the employee, then a 57-year-old pipefitter, was helping to install a heating unit when he developed pain in his left arm, followed by chest pain. The Office of Workers' Compensation Programs accepted the employee's claim for myocardial infarction and began payment of temporary total disability compensation effective April 5, 1973. The employee returned to work for the period May 21 through August 4, 1975 but stopped again thereafter. The Office resumed payment of temporary total disability compensation.

On November 10, 1997 appellant filed a claim for death benefits, indicating that the employee died on August 8, 1997. Appellant submitted a death certificate which listed the employee's cause of death as cardiac arrest.

In a June 9, 1998 decision, the Office denied appellant's claim for death benefits on the grounds that the employee did not die of the condition for which he was receiving compensation. Appellant requested a hearing before an Office hearing representative, which was conducted on January 26, 1999. In a March 18, 1999 decision, the Office hearing representative found that the medical evidence failed to reflect that the employee's death was causally related to his accepted employment-related condition. He therefore affirmed the Office's June 9, 1998 decision.

The Board finds that appellant has not met her burden of proof in establishing that the employee's death was causally related to his accepted employment-related condition.

Appellant has the burden of proving by the weight of reliable, probative and substantial evidence that the employee's death was causally related to his or her federal employment. This burden includes the necessity of furnishing medical opinion evidence of a cause and effect

relationship based on a proper factual and medical background. The mere showing that an employee was receiving compensation for total disability at the time of death does not establish that the employee's death was causally related to his or her federal employment.¹

The Office had accepted that the employee sustained a diaphragmatic myocardial infarction due to his employment. The Office noted that the employee also had coronary artery disease which it did not accept as causally related to his employment. The death certificate indicated that the employee's death was due to cardiac arrest. In an October 30, 1997 report, Dr. John F. McQuade, a Board-certified cardiologist, indicated that the employee was originally disabled in 1973 due to a heart attack. He noted that the employee was treated for coronary artery disease. Dr. McQuade stated that the direct cause of death was cardiac arrest due to coronary artery disease with a contributing cause of cardiac arrhythmia due to coronary artery disease. He commented that the employee had an inferior wall myocardial infarction in 1973 with persistent angina pectoris ever since that time as well as congestive heart failure. Dr. McQuade indicated that these conditions were the cause of the employee's disability. He noted that the employee underwent coronary artery bypass surgery in 1994 and received a permanent pacemaker. Dr. McQuade concluded that the employee's death was the result of advanced coronary artery disease, which was the original cause for his disability.

In a February 13, 1998 memorandum, an Office medical adviser stated that the employee had an acute myocardial infarction in 1973, at which time the treating physician stated the employee had preexisting coronary artery disease. He noted that by 1974 the employee had developed angina and an electrocardiogram showed changes consistent with ischemia of coronary artery disease and the scar of the myocardial infarction. The medical adviser stated that the myocardial infarction healed within several months and the coronary artery disease proceeded on its inexorable course. He indicated that there was no rationale to show that the terminal cardiac arrest was caused by the March 14, 1973 incident. The medical adviser stated that the only relationship was that the terminal event and the myocardial infarction were caused by the same preexisting cause.

In a May 21, 1998 report, Dr. Paul W. Farrell, a Board-certified cardiologist and Office consultant, stated that the accepted condition was post-diaphragmatic myocardial infarction. He noted that angina and coronary artery disease were not accepted conditions but were considered as concurrent conditions. Dr. Farrell indicated that the employee sustained his myocardial infarction on March 14, 1973. He stated that most likely the underlying condition of coronary artery disease contributed to both the infarction in 1973 and the employee's death in 1997. Dr. Farrell concluded that, since the coronary artery disease was not an accepted but a concurrent condition, the employee's death was not directly related to the myocardial infarction some 24 years previously.

In a July 1, 1998 report, Dr. George H. Beckwith, a Board-certified cardiologist, stated that the diagnosis of cardiac arrest meant that the employee's heart was not adequately pumping blood to the vital organs and therefore he did not survive. He commented that cardiac arrest could occur because the employee developed ventricular tachycardia or ventricular fibrillation or

¹ Carolyn P. Spiewak (*Paul Spiewak*), 40 ECAB 552 (1989).

because his heart stopped. Dr. Beckwith indicated that the employee's heart should not have stopped with a pacemaker. He concluded, therefore, that in the employee's case the heart probably developed a fatal rhythm problem such as ventricular fibrillation where the heart was not functioning appropriately and no blood supply was getting to the brain.

In a July 9, 1998 report, Dr. McQuade stated that the employee died of progressive coronary artery ischemia. He noted that the employee's coronary artery disease had been present for many years prior to his coronary bypass surgery. Dr. McQuade commented that there was no doubt that the employee's primary problem was coronary artery disease.

The medical evidence of record, primarily the memorandum of the Office medical adviser and the report of Dr. Farrell, showed that the employee's death was due to coronary artery disease. However, this condition was not accepted as causally related to the employee's employment. There is no medical evidence of record relating the coronary artery disease to the employee's work. The Office medical adviser and Dr. Farrell indicated that coronary artery disease was a preexisting, underlying condition that caused both the myocardial infarction and then, 24 years later, the employee's death. There is no medical evidence of record that shows the employee's myocardial infarction directly caused or contributed to the cause of the employee's death 24 years later by causing a permanent aggravation of the coronary artery disease. The Office medical adviser indicated that the effects of the myocardial infarction resolved within months of its occurrence. Dr. McQuade stated that the employee's death was due to the coronary artery disease. He did not explain, however, how the coronary artery disease was causally related to the employee's work or how the accepted myocardial infarction was directly related to the cause of the employee's death or contributed to the cause of his death. Appellant therefore has not met her burden of proof in establishing that the effects of the employee's myocardial infarction on March 14, 1973 caused or contributed to the cause of his death on August 8, 1997.

The decisions of the Office of Workers' Compensation Programs, dated March 18, 1999 and June 9, 1998, are hereby affirmed.

Dated, Washington, D.C.
August 16, 2000

Michael J. Walsh
Chairman

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member