

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of EDWIN OGILVIE and U.S. POSTAL SERVICE,  
POST OFFICE, Houston, TX

*Docket No. 00-2147; Submitted on the Record;  
Issued May 10, 2001*

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DECISION and ORDER

Before BRADLEY T. KNOTT, A. PETER KANJORSKI,  
PRISCILLA ANNE SCHWAB

The issue is whether appellant has met his burden of proof in establishing that his right leg aneurysm was casually related to his federal employment.

On May 10, 1995 appellant, a 53-year-old letter carrier, filed a notice of occupational disease, alleging that he developed an aneurysm in the main artery of his right leg due to his employment duties. Appellant stated that his right leg condition was caused by the stop-start fashion in which he delivered mail in his postal vehicle.

By decision dated October 3, 1995, the Office of Workers' Compensation Programs denied appellant's claim finding that the medical evidence was not sufficient to establish a causal relationship. He requested an oral hearing and by decision dated October 29, 1996, the hearing representative remanded appellant's claim to the Office for additional development of the medical evidence.

Following this development, the Office issued a decision dated August 5, 1999 denying appellant's claim. He requested an oral hearing and by decision dated April 4, 2000, the hearing representative affirmed the Office's August 5, 1999 decision.

The Board finds this case not in posture for decision due to an unresolved conflict of medical opinion evidence.

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.

The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete factual and medical background, showing a causal relationship between the claimed condition and identified factors. The belief of a claimant that a condition was caused or aggravated by the employment is not sufficient to establish causal relation.<sup>1</sup>

In this case, appellant attributed his popliteal artery aneurysm to his employment duties of driving a postal jeep with no power brakes and stopping 300 to 500 times a day over 15 years. The employing establishment confirmed that appellant had a curb delivery route and that this required stopping at curb boxes for delivery. In the statement of accepted facts, the Office noted that appellant was required to deliver mail along a prescribed route and pick up additional mail from relay boxes by foot or by vehicle.

In support of his claim, appellant submitted several reports from Dr. Daniel M. Stroud, a Board-certified thoracic surgeon. On September 5, 1996 Dr. Stroud diagnosed ischemia of the right leg with a thrombosis popliteal artery aneurysm and popliteal artery entrapment syndrome. He stated: "It is my opinion of reasonable medical probability that the chronic exercise of stopping and starting his vehicle for postal delivery could have caused a muscle entrapment of the popliteal artery resulting in an aneurysm of the popliteal artery. [Appellant] still is in jeopardy of losing his foot." On January 18, 2000 Dr. Stroud noted that appellant underwent additional surgery on March 8, 1999 and repeated his earlier conclusions.

The Office referred appellant for a second opinion evaluation with Dr. David Samuels, a Board-certified internist. In his report dated June 21, 1999, Dr. Samuels noted appellant's history of hypertension and prior cigarette usage. He reviewed appellant's medical history and performed a physical examination. Dr. Samuels stated that appellant had recurrent thrombosis of right popliteal artery with three surgical procedures. He added: "The genesis of popliteal artery aneurysms with subsequent thrombosis is not scientifically well known."

Dr. Samuels noted that appellant attributed his condition to the operation of his motor vehicle while in the performance of duty. He stated: "I am indeed uncertain that this is the case, given the fact that other patients with popliteal artery aneurysms do not commonly have a history of operation of a motor vehicle as an etiology of their condition and conversely, the operators of motor vehicles do not, to my knowledge, have a high incidence of popliteal artery aneurysms." He noted that the etiology of popliteal artery aneurysms commonly was atherosclerosis, genetic arterial pathology with consequent vascular wall weakness or localized trauma to the popliteal artery.

In a report dated February 22, 2000, Dr. Stroud reviewed Dr. Samuels' June 21, 1999 report: "The letter states that operation of a motor vehicle probably did not cause [appellant's] aneurysm. Yet, neither Dr. Samuels nor I can rule it out. It is possible, in my opinion, that the chronic exercise of stopping and starting his vehicle for postal delivery may have played a major role in the development of the aneurysm."

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<sup>1</sup> *Lourdes Harris*, 45 ECAB 545, 547 (1994).

Section 8123(a) of the Federal Employees' Compensation Act,<sup>2</sup> provides: "If there is disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination."

In this case, appellant's attending physician, Dr. Stroud, believed that appellant's employment duties of frequent stops and starts of his motor vehicle contributed to a muscle entrapment of the popliteal artery resulting in aneurysm. The Office physician, Dr. Samuels, listed the most frequent causes of popliteal aneurysm and stated that operating a motor vehicle was not a common factor in the etiology of this condition.

Due to this disagreement regarding the causal relationship between appellant's accepted employment duties and his diagnosed condition, the Board finds that the Office should refer appellant, a statement of accepted facts, including an approximation of the number of stops on appellant's route and a list of specific questions to an appropriate Board-certified physician to determine if there is a causal relationship between appellant's diagnosed condition and his accepted employment duties. After this and such other development as the Office deems necessary, the Office should issue an appropriate decision.

The April 4, 2000 decision of the Office of Workers' Compensation Programs is hereby set aside and the case is remanded for further development consistent with this opinion.

Dated, Washington, DC  
May 10, 2001

Bradley T. Knott  
Alternate Member

A. Peter Kanjorski  
Alternate Member

Priscilla Anne Schwab  
Alternate Member

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<sup>2</sup> 5 U.S.C. §§ 8101-8193, 8123(a).