

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MELBA C. STRACENER, claiming as widow of JESSE E. STRACENER and
DEPARTMENT OF VETERANS AFFAIRS, VETERANS ADMINISTRATION MEDICAL
CENTER, Temple, TX

*Docket No. 02-130; Submitted on the Record;
Issued June 6, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant met her burden of proof to establish that her husband's death on March 21, 2000 was causally related to his December 11, 1972 employment injury.

On December 11, 1972 the employee, then a 48-year-old administrative assistant, filed a notice of traumatic injury claiming that he fell on December 11, 1972 and injured his back. The Office of Workers' Compensation Programs accepted the claim for compression fractures of D3 and D5 and paid compensation benefits for temporary total disability until the employee's death on March 21, 2000.

Appellant applied for survivor's benefits on May 23, 2000. The death certificate indicated that the cause of death was septic shock, urosepsis and BPH, as well as "severe CAD" (coronary artery disease) and "LV dysfxn." By letter dated August 11, 2000, the Office advised appellant that it was her responsibility to submit medical evidence that includes a physician's rationalized opinion explaining how the employee's death is related to the accepted employment injury. By decision dated November 7, 2000, the Office denied appellant's claim for death benefits since the medical evidence was not sufficient to establish the employee's death was related to his accepted back condition.

Appellant requested a review of the written record and submitted a December 22, 2000 report from Dr. Charles A. Shoultz, a Board-certified internist, who stated:

"I believe that the patient had long-standing coronary disease and ventricular dysfunction prior to this hospitalization. Over the years his activity had been severely limited by chronic back problems and I believe this contributed to his debility. Had the patient been in better condition, I believe he would have been a better candidate for coronary bypass surgery and likely would have survived his illness."

By decision dated July 5, 2001, the hearing representative affirmed the Office's November 7, 2000 decision.

Appellant requested reconsideration and submitted an August 2, 2001 report from Dr. W. George Bartels, a Board-certified family practitioner, who stated:

“[The employee] had a multitude of medical problems during the times, which I took care of him. He had continued to have chronic back pain since 1972, which was very physically limited for him, but in addition had suffered from [c]oronary [a]rtery [d]isease ([s]tatus [p]ost [m]yocardial [i]nfarction), [c]hronic [o]bstructive [p]ulmonary [d]isease, [s]troke (requiring chronic anticoagulation with [c]oumadin), a [c]hronic [a]nxiety [d]isorder, and in the later years Type II [d]iabetes. Most of my visits with him were focused predominately on his COPD [chronic obstructive pulmonary disease] and [c]ardiovascular disease, although he has continued to take chronic anxiolytic medication for his anxiety disorder. Certainly his back condition prevented him from exercising vigorously and improving his weight and degree of fitness; however, he suffered from other risk factors as well, that compromised his overall health.

“Certainly since I had seen him in the later years of his life it was difficult for me to determine the contribution of his back injury to his overall health since this had occurred 15 years prior to his first visit with me and I was unable to appreciate what his health was like at that time. Unfortunately by the time that I began seeing him I was dealing mainly with the multitude of chronic diseases and conditions that he had developed prior to 1987 and for which I focused upon during his office visits to me.”

In a merit decision dated September 20, 2001, the Office denied appellant's request for modification of the November 7, 2000 decision.

The Board finds that appellant did not meet her burden of proof to establish that the employee's death on March 21, 2000 was causally related to his December 11, 1972 accepted employment injury.

Appellant has the burden of proving by the weight of the reliable, probative and substantial evidence that the employee's death was causally related to his employment.¹ This burden includes the necessity of furnishing rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relationship.²

An award of compensation in a survivor's claim may not be based on surmise, conjecture, or speculation, or on a claimant's belief that the employee's death was caused,

¹ *Carolyn P. Spiewak (Paul Spiewak)*, 40 ECAB 552, 560 (1989).

² *Martha A. Whitson (Joe E. Whitson)*, 43 ECAB 1176, 1180 (1992).

precipitated, or aggravated by the employment. A claimant's opinion that an injury accepted by the Office untimely caused the employee's death is insufficient to establish causal relationship.³

Appellant submitted medical reports relating her husband's heart condition to his back condition by the way of physical inactivity; however, the reports are not sufficiently well rationalized to establish causal relationship. The only reports of record which address causal relationship between the two conditions are the reports from Dr. Shoultz and Dr. Bartels.

Dr. Shoultz indicated in his December 22, 2000 report that the employee had long-standing coronary disease and ventricular dysfunction. He stated that over the years the employee's physical activity had been severely limited due to his chronic back problems and opined that this contributed to his debility. He stated that, if the employee had been in better physical condition, he would have been a better candidate for heart bypass surgery and would have survived his illness. Dr. Shoultz's statement that the employee's lack of physical activity contributed to his debility is not sufficient to establish causal relationship in this case. Dr. Scholtz only states that the employee's inactivity contributed to his overall condition. Also, his statement that if the employee had been a better candidate for heart bypass surgery he ultimately would have lived, is speculative and unsupported by medical rationale. The Board has established that the opinion of the physician 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.⁴ Dr. Shoultz does not explain how the employee's back problems contributed to his heart condition and untimely led to his untimely death. The Board has found that a conclusory statement without supporting rationale is of little probative value⁵ and is insufficient to discharge appellant's burden of proof.

Dr. Bartels, in his August 2, 2001 report, also indicates that the employee's back condition prevented him from exercising, losing weight and improving his fitness level, but noted that there were other risk factors which compromised his overall health. He stated that he did not see the employee for the last three years of his life and acknowledged that it was difficult for him to determine the level of contribution of the employee's back injury to his overall health. He explained that, when he started seeing the employee 15 years ago, he was mainly treating him for a multitude of chronic diseases and conditions that had developed before 1987. Dr. Bartels only noted in his report that the employee's back condition prevented him from exercising and improving his fitness level; he did not opine that there was a direct correlation between his back problems and his heart condition, which ultimately led to his death. Since appellant has not submitted a sufficiently well-rationalized medical report linking the employee's death on March 21, 2000 to his accepted back injury on December 11, 1972, the Board finds that appellant has not met her burden of proof in this case.

³ *Sharon Yonak (Nicholas Yonak)*, 49 ECAB 250 (1997).

⁴ *John J. Carlone*, 41 ECAB 354 (1989).

⁵ *Marilyn D. Polk*, 44 ECAB 673 (1993).

The decisions of the Office of Workers' Compensation Programs dated September 20 and July 5, 2001 and November 7, 2000 are hereby affirmed.

Dated, Washington, DC
June 6, 2002

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member