

FACTUAL HISTORY

On July 24, 2001 appellant, then a 57-year-old senior customs inspector, filed a claim alleging that he suffered a stroke in the performance of duty on July 16, 2001. The Office requested additional information, including the following:

“Have your attending physician submit a detailed narrative report, which includes: history of injury and all prior industrial injuries to similar parts of your body, examination findings, test results, diagnosis (with ICD-9 diagnosis code), treatment provided, prognosis, period and extent of disability and an opinion on the relationship of the diagnosed condition(s) to your [f]ederal employment.”

On July 25, 2001 Dr. Andres N. Jacobo, a consulting neurologist, related appellant’s history of a sudden onset of dizziness, unsteady gait, slurred speech and drooling. He noted preexisting diabetes, prostate cancer and elevated lipids. After describing his findings, he diagnosed brainstem stroke and indicated with a mark that this condition was not caused or aggravated by an employment activity.

On August 14, 2001 appellant explained the reasons he believed his stroke was causally related to his federal employment. He noted that he had to deal with two relocations; he was recently promoted and had to train and learn a new job; he had to deal with new supervisors, coworkers and subordinates; and he had to deal with extreme weather conditions, with temperature averaging about 115 degrees. Appellant stated: “All the above conditions I have had to deal with during these past four months. I highly suspect that with above stressful conditions, my hypertension and diabetes caused me to have a stroke that day while working vehicle secondary area at Calexico port of entry – west.”

In a decision dated September 6, 2001, the Office denied appellant’s claim. The Office found that none of the medical evidence received included a physician’s opinion relating his stroke to the activities he described.

Appellant requested reconsideration. In support thereof he submitted a September 25, 2001 report from Dr. Jacobo, who addressed the issue of causal relationship as follows:

“I was asked to comment on how the patient’s work may have contributed to his stroke. I think it is one risk factor since the patient works in a harsh environment. The patient’s work requires him to stand up for several hours, probably through the whole shift. I understand he works at the Port of Entry at the border with Mexico. Around the time of the stroke, it was in July 2000 and that temperatures were probably as high as 110 degrees. Those 2 situations are very likely to increase the patient’s blood pressure and also to increase the patient’s blood sugars. Although I did n[o]t see the patient initially, I would not be surprised if the patient had dehydration. I hope I clarified for you the way these factors led to [appellant’s] current problem.”

In a decision dated December 21, 2001, the Office reviewed the merits of appellant’s claim and denied modification of its prior decision. The Office found that Dr. Jacobo’s opinion

was speculative and insufficient to establish that appellant suffered an ischemic stroke as a result of his federal employment on July 16, 2001.

Appellant again requested reconsideration. He submitted a May 7, 2002 report from Dr. Jacobo, who reviewed appellant's office visits and described appellant's history of injury, family history and risk factors. Dr. Jacobo diagnosed brainstem stroke and offered the following opinion:

"In my dictation from September 25, 2001, I started with this sentence, 'I think it is one of the risk factors that the patient works in a harsh environment.' I was referring to the fact that the patient works in the Calexico port of entry at the border with Mexico. Calexico-Mexicali is one of the worst [cities] in terms of high temperatures. The temperature average in the month of July is close to 110 degrees. The humidity runs about 30 percent. That gives you an idea of the extreme weather that he encountered during the summer. Harsh weather, as I call it, can increase a patient's blood pressure and blood sugars. The patient's weight was 277 pounds when I saw him initially on July 23, 2001 and 295 pounds on my last examination from November 6, 2001. It will be very difficult to rule out that the patient had a least dehydration if not being at risk for a heat stroke. The fact that the patient has had diabetes since 1991 and diabetes impairs the body's ability to sweat, impairs the ability of the body to control blood pressure, heart rate and all the risk factors combined provide an extreme situation, in which [appellant] suffered a stroke. It is well known that high glucose makes a stroke worse as well as increased elevation of blood pressure because of diabetic-related autonomic dysfunction. Everything I have argued is true and not speculation. There comes a very persuasive explanation with probative values. You can ask the opinion of a stroke specialist to find out that he/she will agree with me 100 percent.

"CONCLUSION: I believe, more probable than not, based on my knowledge of medicine, with investigations and examinations on this unfortunate patient, that all the factors combined precipitated and worsened the stroke this gentleman suffered."

Dr. Jacobo noted that appellant's stroke occurred in the first few days of his move from San Diego, CA, with an average temperature of 70 degrees, to Calexico port of entry, with temperature over 110 degrees in July. "A more clear and direct causation cannot be pointed to," he stated. Dr. Jacobo explained that, while appellant's stroke was not 100 percent work related, it was work related in a large percentage.

The employing establishment confirmed that appellant worked outdoors in the heat and that even at night temperatures would have been between 90 and 100 degrees. The employing establishment advised that on any given day appellant would have rotated frequently between a covered outdoors area and an air conditioned indoors area with frequent breaks for water and food.

In a decision dated October 22, 2002, the Office reviewed the merits of appellant's claim and denied modification of its prior decision. The Office accepted that appellant was required to work indoors and outdoors and that by residing in Calexico, CA, he was exposed to a hot environment. The Office found, however, that appellant was not required to work in direct exposure to the sun or in an extremely hot environment on a continuous basis. The Office noted that appellant began working in Calexico, CA, on June 3, 2001 approximately six weeks before he had the stroke, not the few days that Dr. Jacobo reported. The Office found that Dr. Jacobo based his opinion on an incomplete factual background and on speculation, as he made no showing that appellant was dehydrated.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of proof to establish the essential elements of his claim. When an employee claims that he sustained an injury in the performance of duty, he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. Appellant must also establish that such event, incident or exposure caused an injury.²

Causal relationship is a medical issue³ and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete factual and medical background of the claimant,⁴ must be one of reasonable medical certainty⁵ and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.⁶

ANALYSIS

The record contains sufficient evidence to establish that appellant experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. The Office accepted that appellant's federal employment required him to work indoors and outdoors. The Office accepted that he was exposed to a hot environment. The Office did not accept that he was required to work in direct exposure to the sun or in an extremely hot environment on a

¹ 5 U.S.C. §§ 8101-8193.

² See *Walter D. Morehead*, 31 ECAB 188, 194 (1979) (occupational disease or illness); *Max Haber*, 19 ECAB 243, 247 (1967) (traumatic injury). See generally *John J. Carlone*, 41 ECAB 354 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁴ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁵ See *Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁶ See *William E. Enright*, 31 ECAB 426, 430 (1980).

continuous basis. The question for determination is whether these accepted environmental factors caused or contributed to appellant's ischemic brainstem stroke.

Dr. Jacobo, the consulting neurologist, wrote two reports supporting such a relationship. He noted that harsh weather can increase a patient's blood pressure and blood sugars, that diabetes impairs the body's ability to sweat and to control blood pressure and heart rate, that high glucose makes a stroke worse and that appellant's weight was 277 pounds on July 23, 2001. Dr. Jacobo concluded that it was more probable than not that all these factors combined to precipitate and worsen the stroke that appellant suffered.

Although Dr. Jacobo supported his conclusion with some medical reasoning, his opinion is of diminished probative or evidentiary value. He did not demonstrate a full understanding of the environmental conditions, under which appellant discharged his duties. Dr. Jacobo made no mention of frequent rotations between a covered outdoors area and an air conditioned indoors area. He made no mention of frequent breaks for water and food. He failed to make clear that appellant was not required to work in direct exposure to the sun or in an extremely hot environment on a continuous basis. These are relevant factors that Dr. Jacobo should have addressed. The Board has held that medical conclusions based on inaccurate or incomplete histories are of little probative value.⁷

Dr. Jacobo's statement that he "would not be surprised" if appellant had dehydration, or that it would be very difficult to rule out dehydration or risk for a heat stroke, is based on speculation. He did not see appellant initially, did not describe appellant's intake of fluids and did not relate early clinical findings to support that appellant was in fact dehydrated or at risk for a heat stroke on July 16, 2001. Although the medical opinion of a physician supporting causal relationship need not reduce the cause or etiology of a disease or condition to an absolute medical certainty, neither can such opinion be speculative or equivocal.⁸ To the extent that he relied on the mere possibility of dehydration, Dr. Jacobo's conclusion is of diminished probative value.

Finally, the Board notes that on July 25, 2001 Dr. Jacobo completed a form report, in which he expressed the opinion that appellant's stroke was not caused or aggravated by employment activity. He examined appellant only seven days after the event and his report acknowledged appellant's obesity and uncontrolled diabetes. Two months later, on September 25, 2001, Dr. Jacobo expressed the opposite opinion. He provided a narrative discussion of his reasons for supporting causal relationship but made no attempt to reconcile his earlier opinion to the contrary. This leaves an ambiguity that must be addressed if appellant is to discharge his burden of proof.

⁷ *E.g.*, *James A. Wyrick*, 31 ECAB 1805 (1980) (physician's report was entitled to little probative value because the history was both inaccurate and incomplete). *See generally Melvina Jackson*, 38 ECAB 443, 450 (1987) (addressing factors that bear on the probative value of medical opinions).

⁸ *E.g.*, *Philip J. Deroo*, 39 ECAB 1294 (1988); *Jennifer Beville*, 33 ECAB 1970 (1982) (statement of a Board-certified internist that the employee's complaints "could have been" related to her work injury was speculative and of limited probative value).

CONCLUSION

The Board finds that the medical opinion evidence in this case while generally supportive of appellant's claim, is of diminished probative value and is, therefore, insufficient to establish that the stroke appellant suffered on or about July 16, 2001 is causally related to his federal employment. Appellant has not met his burden of proof.

ORDER

IT IS HEREBY ORDERED THAT the October 22, 2002 and December 21, 2001 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: April 12, 2004
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
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