United States Department of Labor
Employees' Compensation Appeals Board

WILLIAM SWAIN, Appellant	)	
and	)	**Docket No. 03-1202**
	)	**Issued: January 7, 2004**
DEPARTMENT OF DEFENSE,	)	
DEFENSE INDUSTRIAL SUPPLY CENTER	)	
Philadelphia, PA, Employer	)	

Appearances:
Jeffrey P. Zeelander, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
DAVID S. GERSON, Alternate Member
WILLIE T.C. THOMAS, Alternate Member
MICHAEL E. GROOM, Alternate Member

JURISDICTION

On April 9, 2003 appellant filed a timely appeal from the Office of Workers' Compensation Programs merit decision dated January 8, 2003. Pursuant to 20 C.F.R. § 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met his burden of proof to establish that his heart condition is causally related to his accepted back conditions.

FACTUAL HISTORY

On January 21, 1999 appellant, then a 58-year-old business commodity clerk, injured his low back while moving computer equipment. In a January 21, 1999 report, Dr. Murray Brand, an attending Board-certified family practitioner, diagnosed appellant with lumbar radiculopathy, lumbosacral strain, right side L5 nerve root distribution and found him totally disabled. Appellant's medical history included preexisting degenerative disc disease, coronary artery

disease and bypass surgery in 1994. A January 30, 1999 magnetic resonance imaging (MRI) scan revealed degenerative disc disease at L4-5, greater than L5-S1 and mild broad-based bulging and disc annulus at L3-4 and L4-5 with borderline central canal stenosis. The claim was accepted for lumbar sprain, lumbar spasm and aggravation of preexisting lumbar degenerative disc disease.

In a July 23, 1999 report, Dr. Murray Robinson, an attending Board-certified neurosurgeon, diagnosed severe lumbar radiculopathy and right foot drop secondary to severe degenerative disc disease and instability at L4-5 and L5-S1. He recommended a decompression fusion surgery. Dr. Robinson also found that appellant had unstable angina and opined that he needed angioplasty and possible stent surgery, but suggested that he could not undergo these procedures due to back discomfort.

The Office referred appellant for a second opinion. In a July 22, 1999 report, Dr. Steve Valentino, a Board-certified osteopathic surgeon, found that appellant had no residual work-related injury. The Office found a conflict of medical opinion between Drs. Brand and Robinson and Dr. Valentine on the issue of residuals and referred appellant for an impartial medical examination.

In a November 24, 1999 report, Dr. Andrew Collier, a Board-certified orthopedic surgeon, found that appellant continued to have residuals from the accepted aggravation of his preexisting lumbar degenerative disc disease. He opined that appellant could work four to six hours a day of restricted duty.

Appellant did not return to work and was referred to vocational rehabilitation in April 2000. In an April 1, 2000 report, Dr. Roger Wint, an attending Board-certified cardiologist, noted that appellant had a long history of angina pectoris that occurred with exertion or stress. He indicated that other risk factors included, hypertension, a family history of artherosclerosis and hypercholesterolemia and the fact that appellant smoked up to two packs of cigarettes a day. On examination, Dr. Wint found that appellant had no symptoms compatible with unstable angina or congestive heart failure. In a July 13, 2000 report, he noted that appellant was experiencing daily angina and was under "a great deal of stress due to his back discomfort." Dr. Wint noted that appellant refused noninvasive testing to assess the severity of his underlying coronary disease, due to his back condition.

On March 14, 2001 appellant underwent the first stage of neuroplasty targeting his right L5 nerve root sleeve, myelogram without dural puncture and injection of steroid containing medication and fluoroscopy. In a May 10, 2001 report, Dr. Collier amended his previous opinion and found that appellant was temporarily totally disabled. In a June 6, 2001 decision, the Office approved the surgery, but refused to cover appellant's heart condition treatments.

In a July 12, 2001 report, Dr. Wint reported that appellant had angina discomfort twice a week and noted that his main problem was the severe back discomfort that prevented him from undergoing a cardiac catherization or other tests to assess his heart condition. In an October 4, 2001 report, Dr. Wint repeated his recommendations, but added that appellant had symptoms of angina after climbing a single set of stairs, indicating a possible occlusion at the site of his

previous angioplasty or perhaps new lesions due to his ongoing smoking. Appellant told Dr. Wint that his smoking helped him cope with the stress related to his back pain.

In a July 23, 2001 letter, appellant, through his representative, requested a hearing and argued that his heart condition was aggravated by the pain resulting from his accepted back condition and was, therefore, also work related. In a February 20, 2002 decision, the hearing representative remanded the case, finding that the Office's May 10, 2001 decision to deny appellant's heart condition was premature.

In a March 11, 2002 letter, the Office notified appellant that he needed to submit additional medical evidence regarding his heart condition, including a rationalized explanation of the causal relationship between his heart condition and his accepted back condition. In a May 1, 2002 report, Dr. Safia Lam, a Board-certified anesthesiologist, stated that she had treated appellant since 1991, when he sustained a work-related injury that continued to produce severe pain, including lower back pain that radiated into both his lower extremities and rendered him totally disabled for work. She diagnosed severe lumbar radiculopathy with the main focus on the right L5 nerve distribution and lumbar facet arthropathy and paravertebral spasm.

In a May 23, 2002 decision, the Office found that the medical evidence did not establish that appellant's heart condition and the subsequent medical treatment were causally related to his January 21, 1999 work injury.

In a May 29, 2002 letter, appellant requested a hearing that was later modified to a review of the written record. In a January 8, 2003 decision, an Office hearing representative affirmed the May 23, 2002 decision, finding that appellant failed to submit rationalized medical evidence demonstrating a causal relationship between his accepted back injury and his heart condition and treatments.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act has the burden of establishing the essential elements of his or her claim, including the fact that an injury was sustained in the performance of duty as alleged and that any disability for which compensation is claimed is causally related to the employment injury.[1]

The evidence required to establish causal relationship is rationalized medical evidence, based on a complete factual and medical background, showing a causal relationship between the claimed medical condition and the identified factors.[2] An award of compensation may not be based on surmise, conjecture, speculation or the claimant's belief of causal relationship.[3] The claimant must present rationalized medical opinion evidence, based on a complete factual and

[1] *Duane B. Harris*, 49 ECAB 170 (1997).

[2] *Dennis Mascarenas*, 49 ECAB 215 (1997).

[3] *William Nimitz, Jr.*, 30 ECAB 567, 570 (1970); *Miriam L. Jackson Gholikely*, 5 ECAB 537, 538-39 (1953).

medical background, showing causal relationship.[4] The mere manifestation of a condition during a period of employment does not raise an inference of causal relationship between the condition and the employment.[5] Neither the fact that the condition became apparent during a period of employment nor the claimant's belief that the employment caused or aggravated his condition is sufficient to establish causal relationship.[6]

ANALYSIS

The medical evidence establishes that appellant has a heart condition diagnosed as angina. However, the Board finds that the medical evidence does not establish that this condition was caused, aggravated or a consequence of his accepted lumbar sprain, lumbar spasm and aggravation of preexisting lumbar degenerative disc disease. In a July 23, 1999 report, Dr. Robinson opined that appellant needed angioplasty and possible stent surgery, but noted that he could not undergo these procedures due to back discomfort. He, however, did not provide a clear opinion that appellant's accepted back condition caused or aggravated the diagnosed cardiac condition. This report is of limited probative value on the issue of the present case in that it does not contain a rationalized opinion on causal relationship.[7]

In his April 1, 2000 report, Dr. Wint noted that appellant had a long history of angina pectoris which occurred with exertion and stress. He did not relate appellant's heart condition to the accepted back conditions. In a July 13, 2000 report, he noted that appellant had daily angina and was under "a great deal of stress due to his back discomfort." The Board notes that Dr. Wint did not attribute appellant's heart condition to his stress or provide any explanations to how appellant's back condition would cause or contribute to episodes of angina. In a July 12, 2001 report, Dr. Wint expressed concern about appellant's heart condition but noted that he refused treatment due to back discomfort. The reports of Dr. Wint do not provide rationalized discussion how appellant's heart condition was causally related to his accepted back conditions. In an October 4, 2001 report, Dr. Wint noted only that appellant's back pain created stress and caused him to refuse further testing on his heart. This report fails to explain how appellant's heart condition was caused or aggravated by the accepted back injuries. The Board finds that the medical evidence of record is insufficient to establish that appellant's heart condition was caused or contributed to by the accepted injuries.

[4] *Mary J. Briggs*, 37 ECAB 578, 581 (1986).

[5] *Edward E. Olson*, 35 ECAB 1099, 1103 (1984).

[6] *Bruce Martin*, 35 ECAB 1090, 1093 (1984); *Dorothy R. Goad*, 5 ECAB 192, 193 (1952)

[7] *See Charles H. Tomaszewski*, 39 ECAB 461, 467-68 (1988) (finding that medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

CONCLUSION

Appellant has not met his burden of proof to establish his heart condition is causally related to his accepted back conditions.

ORDER

The decisions by the Office of Workers' Compensation Programs dated January 8, 2003 and May 23, 2002 are affirmed.

Issued: January 7, 2004
Washington, DC

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member