United States Department of Labor
Employees' Compensation Appeals Board

LATRICHIA BROWN, Appellant	)	
and	)	**Docket No. 04-482**
	)	**Issued: May 25, 2004**
DEPARTMENT OF VETERANS AFFAIRS, VETERANS AFFAIRS MEDICAL CENTER, Philadelphia, PA, Employer	)	

Appearances:
Latrichia Brown, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
COLLEEN DUFFY KIKO, Member
DAVID S. GERSON, Alternate Member
A. PETER KANJORSKI, Alternate Member

JURISDICTION

On December 15, 2003 appellant filed a timely appeal of a decision of the Office of Workers' Compensation Programs dated September 11, 2003, affirming as modified the Office's September 23, 2002 decision denying her claim for a March 25, 2002 episode of multiple chemical sensitivity. The Office further found that appellant had not established a July 9, 2001 episode or an underlying multiple chemical sensitivity condition. 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 established that she sustained a multiple chemical sensitivity condition in the performance of duty.

FACTUAL HISTORY

On March 25, 2002 appellant, then a 55-year-old medical clerk, filed a traumatic injury claim alleging that she experienced a headache, numbness of her lips and left arm and chest pain

when exposed to unspecified chemicals, paint and carpet fumes in the radiology unit that morning.[1] In an associated questionnaire, she noted experiencing identical symptoms in the same work area on March 20, 2001 when exposed to paint and carpet fumes.[2] Appellant stopped work on March 25, 2002 and did not return, retiring from federal employment on October 31, 2002.[3]

Appellant submitted medical reports from several attending physicians describing her account of reactions to alleged chemical exposures at work, including acute episodes on July 9, 2001 and March 25, 2002. In May and June 2001 reports, Drs. Daphne G. Golding and Kenneth L. Izzo, Board-certified physiatrists, noted appellant's symptoms of headache, numb lips, left arm numbness and chest pain and diagnosed a sensitivity to unspecified fumes or chemicals at work. On July 9, 2001 appellant presented to an employing establishment physician with dyspnea, then sought emergency room treatment from Dr. David Horowitz, a Board-certified internist, who observed respiratory wheezing and diagnosed an allergic reaction "of unclear etiology to paint fumes." Dr. Arnold Levinson, a Board-certified allergist and immunologist, submitted a July 27, 2001 report noting appellant's exposures to computed tomography (CT) and magnetic resonance imaging (MRI) scan films, x-ray developing chemicals, paint and carpeting at work and a June 29, 2001 developer spill. On July 11, 2001 he toured appellant's work area with employing establishment safety officials and found no environmental hazards.[4] Dr. Levinson found that appellant's symptoms, including the July 9, 2001 episode, were due to cervical disc disease and anxiety.

In a November 21 and December 12, 2001 reports, Dr. Clancy D. McKenzie, an attending Board-certified psychiatrist and neurologist, diagnosed multiple chemical sensitivity to styrene, isocyanate, titanium dioxide and formaldehyde present in the paint and carpet in appellant's work area.[5] He recommended testing appellant for styrene metabolites and restricted her from further chemical exposures. In a January 3, 2002 report, Dr. Harold Buttram, an attending general practitioner specializing in environmental medicine, diagnosed multiple chemical sensitivity, solvent toxicity, degenerative arthritis, chronic sinusitis, goiter and

[1] In a May 3, 2002 letter, the Office advised appellant of the type of additional medical and factual evidence needed to establish her claim, including a rationalized statement from her attending physician explaining how and why the alleged work exposures caused or aggravated any medical condition.

[2] The Office approved Claim No. 03-0258751 for a single episode of asthma on March 20, 2001 caused by inhaling paint fumes. This claim is not before the Board on the present appeal.

[3] The employing establishment controverted the claim as appellant's prior claims for chemical exposures were denied. By decision dated November 6, 2000, the Office denied Claim No. 03-0253573 for injuries due to June 2000 chemical spills. Appellant's claim for a March 26, 2001 recurrence of disability was denied. These claims are not before the Board on the present appeal.

[4] July 11, 2001 air samples showed less than 0.02 parts per million of formaldehyde, carbon dioxide below action levels. Safety officials observed no leaks, gross mold contamination or odors. After a June 29, 2001 overflow of x-ray developer was cleared with sodium hydroxide, several employees complained of headaches, dizziness and shortness of breath.

[5] A material safety data sheet stated that the paint used in appellant's work area contained titanium dioxide, propylene and ethylene glycol, isodecyl benzoate and crystalline silica.

depression. He explained that toxic chemicals deactivated detoxifying enzymes in the liver and kidneys, resulting in systemic toxicity and mental confusion.

In March 25 and 26, 2002 reports, Dr Jeffrey Bodack, a Board-certified internist affiliated, with the employing establishment, related appellant's symptoms of a "[r]ecurrence of … numb lips, l[eft]-sided chest pain, arm numbness, headache." He noted a normal examination and that appellant could return to work in the radiology area.

In reports dated from March 30 to April 28, 2002, Dr. Buttram related appellant's account of exposure to "new carpets and paint fumes" on March 20 and 26, 2001 and March 25, 2002, with associated headache, chest tightness and paresthesias. Dr. Buttram opined that appellant could not return to work in the radiology unit.

By decision dated September 23, 2002, the Office denied appellant's claim on the grounds that fact of injury was not established as she did not identify the specific chemicals alleged to have caused the claimed injury. Appellant then requested an oral hearing, held June 23, 2003. At the hearing, appellant newly asserted that she sustained a multiple chemical sensitivity condition due to workplace exposures to diagnostic films, x-ray developing chemicals, paint and carpet and that this hypersensitivity caused July 9, 2001 and March 25, 2002 reactions. Appellant submitted a June 1, 2003 report from Dr. Buttram, stating that exposure to x-ray films from 1994 to 2000, caused a "moderately advanced multiple chemical sensitivity." Following the hearing, appellant submitted a July 17, 2003 report from Dr. Buttram, opining that she was especially reactive to volatile polychloride, styrene and formaldehyde emitted from the carpet in her work area, with adverse reactions to any airborne propylene glycol, silica, ethylene glycol and isodecyl benzoate from paint.[6]

After the hearing, appellant submitted February 24 to September 8, 2000 reports from Dr. David Lipkin, a Board-certified internist, diagnosing an allergy or hypersensitivity to CT and MRI scan films and x-ray developing chemicals. She also submitted an October 26, 2001 report from Dr. McKenzie, diagnosing multiple chemical sensitivity.

In a July 21, 2003 letter, the employing establishment noted that the radiology area was painted and carpeted in March 2001, one year prior to the alleged March 25, 2002 reaction. A manufacturer's data sheet showed that the vinyl fiber carpet was found to emit volatile organic compounds at less than the following volumes in mg/m^2 per hour: 4-phenylcyclohexan 0.10, styrene 0.4; formaldehyde 0.05. There was no known effect from inhaling the water-based carpet adhesive, classified as a nontoxic substance. MRI scan and CT films used a dry thermal processor similar to a photocopier. The employing establishment acknowledged a June 29, 2000[7] spill of hazardous x-ray developing chemicals, cleared with sodium hydroxide. Solution

[6] Appellant also submitted excerpts from medical and scientific literature regarding chemical exposures. However, the Board has held that newspaper clippings, medical texts and excerpts from publications are of no evidentiary value in establishing the causal relationship between a claimed condition and a claimant's federal employment as such materials are of general application and are not determinative of whether the specific condition claimed is related to particular employment factors or incidents. *Gloria J. McPherson*, 51 ECAB 441 (2000).

[7] The Board notes that there is some discrepancy of record as to whether the developer chemical spill occurred on June 29, 2000 or June 29, 2001.

and debris overflowed through the first and second floor ceilings. The employing establishment also submitted a March 13, 2002 note from Dr. Bodack stating that no allergens were found at appellant's work site.

By decision dated and finalized September 11, 2003, the Office hearing representative affirmed as modified the Office's September 23, 2002 decision, finding that appellant had established workplace chemical exposures but not a causal relationship between those exposures and the claimed March 25, 2002 reaction. The hearing representative further found that appellant had not established that she sustained a multiple chemical sensitivity condition due to exposure to diagnostic films from 1994 to 2000 or a July 9, 2001 injury related to such condition.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[8] has the burden of establishing the essential elements of his or her claim, including that the individual is an "employee of the United States" within the meaning of the Act; that the claim was filed within the applicable time limitation.[9]

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 the 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.[10]

The medical evidence required to establish causal relationship generally is rationalized medical opinion evidence, which includes a physician's opinion explaining whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be of reasonable medical certainty and supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.[11] The weight accorded medical evidence is determined by its reliability, probative value and convincing quality. The opportunity for and thoroughness of examination, the accuracy and completeness of the physician's knowledge of the facts and medical history, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion that determine the weight to be given to each individual report.[12]

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[8] 5 U.S.C. §§ 8101-8193.

[9] *Tracey P. Spillane*, 54 ECAB __ (Docket No. 02-2190, issued June 12, 2003).

[10] *Nicolette R. Kelstrom*, 54 ECAB __ (Docket No. 03-275, issued May 14, 2003).

[11] *Linda K. Mitchell*, 54 ECAB __ (Docket No. 03-1281, issued August 12, 2003).

[12] *Jennifer Atkerson*, 55 ECAB ____ (Docket No. 04-158, issued February 13, 2004).

ANALYSIS

In this case, the Office accepted that appellant was exposed to MRI scan and CT films, x-ray films and developing chemicals, a developer spill and fresh paint and carpet in March 2001. However, the Office found that appellant submitted insufficient rationalized medical evidence to establish that these exposures caused the claimed multiple chemical sensitivity condition.

Several of appellant's physicians diagnosed a chemical sensitivity condition due to workplace exposures. In February 24 and June 26, 2000 reports, Dr. Lipkin, a Board-certified internist, diagnosed an allergy or hypersensitivity to MRI scan and CT films and to a June 26, 2000 spill of x-ray developing chemicals. In May and June 2001 reports, Dr. Golding and Dr. Izzo, Board-certified physiatrists, diagnosed sensitivity to unspecified fumes or chemicals at work. Dr. McKenzie, a Board-certified psychiatrist, submitted reports from October to December 2001, diagnosing multiple chemical sensitivity to substances in the paint and carpeting in appellant's work area, with exquisite sensitivity to styrene. Dr. Buttram, a general practitioner, stated in June and July 2003 reports, that appellant's multiple chemical sensitivity condition was due to exposure to diagnostic films and x-ray developing chemicals beginning in 1996, with exquisite sensitivity to volatile polychloride, styrene and formaldehyde emitted by carpeting in her work area and adverse reactions to any airborne propylene glycol, silica, ethylene glycol and isodecyl benzoate from the paint. Dr. Buttram offered a mechanism of causation in his January 3, 2002 report, explaining that toxic chemicals deactivated detoxifying enzymes in the liver and kidneys, resulting in systemic toxicity and mental confusion.

However, the diagnosis of multiple chemical sensitivity was based only on appellant's subjective symptoms and their onset in the workplace, not on objective clinical findings. The mere fact that a condition manifests itself during a period of employment or the claimant's belief that the condition was caused or aggravated by employment conditions, is insufficient to establish a causal relationship.[13] Appellant did not submit toxicology test results demonstrating elevated serum levels of any toxin or that the enzymatic deactivation process posited by Dr. Buttram had occurred. Also, the testing for styrene metabolites recommended by Dr. McKenzie was not performed. Therefore, the opinions of appellant's physicians are insufficient to establish the presence of a multiple chemical sensitivity condition due to a lack of objective clinical findings.[14]

Appellant also alleged that she experienced exacerbations of the multiple chemical sensitivity condition on July 9, 2001 and March 25, 2002, which she attributed to fumes from paint and carpet installed in her work area in March 2001, as well as prior sensitization to diagnostic films and developing chemicals. Dr. Horowitz, a Board-certified internist, observed wheezing on July 9, 2001 and diagnosed an allergic reaction "of unclear etiology" to paint fumes. This opinion is insufficient to establish causal relationship as Dr. Horowitz did not explain how paint applied in March 2001, would produce fumes as late as July 9, 2001 sufficient

[13] *Charles E. Evans*, 48 ECAB 692 (1997).

[14] *Nicolette R. Kelstrom*, *supra* note 10.

to cause an allergic reaction and respiratory wheezing.[15] Dr. Horowitz's opinion is also of diminished probative value as the presence of paint fumes has not been conclusively established.[16] Dr. Levinson, a Board-certified allergist and immunologist, found no toxins or allergens in appellant's workplace as of July 11, 2001. He attributed the July 9, 2001 episode to anxiety and cervical disc disease. Thus, Dr. Levinson negated a causal relationship between workplace exposures and the alleged July 9, 2001 reaction as there were no substances identified that would be competent to produce such a reaction. Also, none of appellant's physicians explained how and why any component of the diagnostic films and processing chemicals would cause a respiratory reaction.

Regarding the alleged March 25, 2002 incident, Dr. Bodack, a Board-certified internist affiliated with the employing establishment, found a normal examination on March 25, 2002 within hours of appellant's alleged exposure to paint and carpet fumes. The lack of objective findings contemporaneous to the alleged exposure casts significant doubt on whether appellant sustained the claimed reaction. While Dr. Buttram attributed appellant's subjective symptoms on March 25, 2002 to exposure to "new" paint and carpet this opinion is inaccurate as the paint was applied and the carpet installed approximately one year previously. It is, therefore, of lessened probative value.[17] The probative value of his opinion is further diminished by the lack of rationale explaining how dry paint and carpet would cause any reaction.[18]

CONCLUSION

The Board finds that appellant has not established that she sustained a multiple chemical sensitivity condition in the performance of duty as she submitted insufficient rationalized medical evidence to establish causal relationship.

[15] *Donna L. Mims*, 53 ECAB ___ (Docket No. 01-1835, issued August 13, 2002) (the Board found that a physician's statement that appellant's symptoms were exacerbated by dust and mold in her workplace was of diminished probative value because of the lack of objective evidence that there was dust and mold in the workplace).

[16] *Robert A. Boyle*, 54 ECAB ___ (Docket No. 02-2177, issued January 27, 2003) (the Board found that appellant's physician's opinion that toxins in appellant's blood were due to workplace exposures was insufficient to establish causal relationship when employing establishment inspections failed to find the suspected contaminants).

[17] *Joan R. Donovan*, 54 ECAB ___ (Docket No. 03-297, issued June 13, 2003) (medical opinion regarding causal relationship must be based on a complete and accurate history of the claimed injury).

[18] *Charles W. Downey*, 54 ECAB ___ (Docket No. 02-218, issued February 24, 2003) (medical opinion not fortified by medical rationale is of little probative value).

ORDER

IT IS HEREBY ORDERED THAT the September 11, 2003 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 25, 2004
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member