

FACTUAL HISTORY

This case was previously on appeal before the Board, which found, by decision dated May 21, 2001, that the report of the impartial medical specialist, Dr. Stanley Arnold, a Board-certified internist selected by the Office to resolve a conflict of medical opinion, did “not provide a specific answer to the question of whether factors of the employee’s federal employment caused or contributed to the aggravation of his underlying coronary conditions and disability.” The Board remanded the case for the Office to obtain such an opinion from an appropriate impartial medical specialist.²

On January 28, 2002 the Office referred the case record and a statement of accepted facts to Dr. Gary D. Beauchamp, a Board-certified cardiologist, for an opinion on whether the compensable factors of employment listed in the statement of accepted facts caused or aggravated the employee’s underlying coronary condition.³ In a report dated March 6, 2002, Dr. Beauchamp concluded:

“It is my opinion that with his psychological makeup and his knowledge of the ‘federal system’ attempts are being made to gain compensation with no justification. It is my opinion that his work and/or his perceived stress of his work did not cause his underlying coronary artery disease, nor necessarily contribute to further development of his coronary artery disease. His description of his continuous chest discomfort and his chest wall discomfort not relieved by nitroglycerine in fact does not sound to me like true angina and he may have had other etiologies for his chest symptoms. ... It is my opinion that his coronary artery disease continued progressing due to not following a prudent diet, regular exercise program as he attested that he had given up doing regular exercise, had not adjusted his risk management. With his avoidance of risk management, the coronary artery disease continued progressing and contributed to his ultimate demise. I can in no way relate undue stress or unusual exercise or unusual activity or unusual emotional situations that would have precipitated [with] the development of coronary artery disease, the progression of coronary artery disease, his original myocardial infarction or his ultimate death....”

By decision dated March 13, 2002, the Office found that “the weight of the medical evidence of record as provided by Dr. Beauchamp does not establish that the coronary disease was caused by exposure to factors of federal employment.”

At the request of appellant, the employee’s widow, a hearing was held on October 23, 2002, at which she testified regarding the employee’s healthy diet and regular exercise his cessation of smoking in 1983, and the sparsity of his psychiatric care. By decision dated

² Docket No. 97-1915 (issued May 21, 2001). The facts of the case are contained in that decision and hereby incorporated by reference. On June 14, 1988 the employee, then a 59-year-old auditor, filed an occupational disease claim, assigned Office File No. 50-38298, alleging that he suffered from severe angina pectoris and a coronary heart condition due to the constant pressure, demands and deadlines at work.

³ On October 25, 2001 the Office referred the case record to another cardiologist who declined the referral by letter dated November 6, 2001.

January 8, 2003, an Office hearing representative found that Dr. Beauchamp's report could not be given special weight or constitute the weight of the medical evidence because his statement, unsupported by evidence in the record, that the employee was attempting to gain compensation with no justification gave the appearance of bias, and because his statement about undue stress or unusual activity indicated an incorrect standard was used in determining causal relationship. The case was remanded to the Office for referral to a new impartial medical specialist for a reasoned medical opinion of whether the employee's coronary artery disease was causally related to compensable factors of his employment.

On February 12, 2003 the Office referred the case record and a new statement of accepted facts to Dr. Matthew S. Bosner, a Board-certified cardiologist, for a reasoned opinion of whether the compensable factors of employment listed in the statement of accepted facts caused or aggravated the employee's underlying coronary condition. In a report dated April 15, 2003, Dr. Bosner, after noting his review of material in the case record and of the medical literature, stated that "there is no question that he had underlying coronary atherosclerosis, which was the pathology of his disease process," no question "psychological factors including stress are clinically related to frequent symptoms of chest pain," and "no question ... that stress is a factor related to progressive disease clinically." Dr. Bosner discussed the significance of blood vessel narrowing to symptoms and noted that studies showed "conclusively that underlying psychological and psychiatric factors are present in the vast majority of patients who present to the hospital with cardiovascular acute syndromes." Dr. Bosner concluded:

"Thus as I perceive the question posed to me in reviewing this massive record set is 'Could the stress factors of the individual's job be related to progression of his symptoms and his subsequent inability to work because of progressive atherosclerosis?' My answer is undeniably that stress was likely a major factor related in the progression of his symptoms and his inability to function at work thus resulting in chest pain, progressive atherosclerosis.

"In my opinion, in the context of this individual and at the timeframe of his clinical presentation, the psychiatric/psychological factors of stress undoubtedly related to his inability to function and perform his job duties and this resulted in his inability to continue his work as an auditor in the U.S. Department of Labor."

In a May 8, 2003 letter, the Office requested that Dr. Bosner clarify his opinion on two points:

"1. Our interpretation of your medical report is that on an anatomic basis, [the employee's] coronary atherosclerosis disease was caused by the normal progression of his underlying disease process which is unrelated to the performance of his general day to day duties including complex financial audits, the motor vehicle accident of August 17, 1983, or the performance of routine duties on October 18, 1983.

"Is this interpretation correct? __ Yes __ No

“If no, please limit your response to the pathophysiological process by which his coronary disease was organically altered by the performance of his general day to day duties including complex financial audits, the motor vehicle accident of August 17, 1983, or the performance of routine duties on October 18, 1983.

“2. It is also our interpretation of your report that certain factors of [the employee’s] job caused his *symptoms of chest pain* to increase. The only relevant factors of employment are listed in the enclosed [s]tatement of [a]ccepted [f]acts under ‘Factors Considered to be Within the Scope of Federal Employment and Work Related.’”

“Is this interpretation also correct? __ Yes __No

“If no, please provide a detailed discussion.” (Emphasis in the original.)

In a response received by the Office on May 28, 2003, Dr. Bosner wrote “yes” in response to both questions.

By decision dated June 12, 2003, the Office found that “the weight of medical evidence of record as provided by Dr. Bosner does not establish that the coronary artery disease was caused or aggravated by exposure to factors of federal employment.”

Appellant, through her attorney, requested a review of the written record, contending that Dr. Bosner supported that stress was a major factor in the progression of the employee’s symptoms and his inability to work. By decision dated February 19, 2004, an Office hearing representative found that the weight of medical opinion was represented by the report of Dr. Bosner, who provided an accurate and complete factual and medical history and included rationale for his opinion, and that this report “clearly established that the employee’s coronary artery disease was not causally related to the compensable factors of employment.”

LEGAL PRECEDENT

The Board has held that when a case is referred to an impartial medical specialist for the purpose of resolving a conflict in medical opinion evidence,⁴ the opinion of such specialist, if sufficiently well rationalized and based on a proper factual and medical background, must be given special weight.⁵ In a situation where the Office secures an opinion from an impartial medical specialist and the opinion from such specialist requires clarification or elaboration, the Office has the responsibility to secure a supplemental report from the specialist for the purpose of correcting the defect in the original report.⁶

⁴ Such referrals are pursuant to section 8123(a) of the Federal Employees’ Compensation Act (5 U.S.C. § 8123(a)), which provides, in pertinent part: “If there is a disagreement between the physician making an examination for the United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination.”

⁵ *James P. Roberts*, 31 ECAB 1010 (1980).

⁶ *Harold Travis*, 30 ECAB 1071 (1979).

ANALYSIS

In the May 21, 2001 decision, the Board found that the opinion of the impartial medical specialist did not adequately answer the question of whether factors of the employee's federal employment caused or contributed to the aggravation of his underlying coronary conditions and disability. The Board remanded the case for the Office to obtain such an opinion from an appropriate impartial medical specialist.

After the report of Dr. Beauchamp was found by an Office hearing representative not to constitute the weight of the medical evidence because of apparent bias and application of an improper standard of compensability, the Office properly referred the case record to Dr. Bosner, a Board-certified cardiologist, whose April 15, 2003 report states "undeniably that stress was likely a major factor related in the progression of his symptoms and his inability to function at work thus resulting in chest pain, progressive atherosclerosis" and that "psychiatric/psychological factors of stress undoubtedly related to his inability to function and perform his job duties and this resulted in his inability to continue his work as an auditor for the U.S. Department of Labor."

Dr. Bosner's April 15, 2003 report, however, did not clearly answer the determinative question in this case of whether compensable factors of the employee's employment aggravated his coronary artery disease and resulted in his inability to work. The Office was therefore required to request a clarifying report from Dr. Bosner.⁷

By a May 8, 2003 letter, the Office solicited a supplemental report. Dr. Bosner answered "yes" to both the Office's questions: on an anatomic basis, was the coronary atherosclerosis caused by the normal progression of the underlying disease process unrelated to the performance of his duties; and did factors of employment cause his symptoms of chest pain to increase. Dr. Bosner's expressions of agreement with the Office's interpretation of his initial report clarify his earlier report and are consistent with that report.

As the reports of an impartial medical specialist resolving a conflict of medical opinion, Dr. Bosner's initial and clarifying reports constitute the weight of the medical evidence. These reports establish that the employee's underlying coronary artery disease was not aggravated by factors of his employment. These reports also establish that the employee's symptom of chest pain was increased by factors of his employment and resulted in his inability to work at some time not specified in these reports. As pain caused by employment factors can be the basis for payment of compensation for disability,⁸ this is sufficient to require the Office to determine

⁷ *Id.*

⁸ See *Fereidoon Kharabi*, 52 ECAB 291 (2001); *Barry C. Peterson*, 52 ECAB 120 (2000).

whether the employee had any periods of disability due to the increased chest pain, and, if so, pay compensation for such periods of disability.⁹

CONCLUSION

The weight of the medical evidence establishes that the employee's underlying coronary artery disease was not aggravated by factors of his employment, and that the employee's symptom of chest pain was increased by factors of his employment.

ORDER

IT IS HEREBY ORDERED THAT the February 19, 2004 and June 12, 2003 decisions of the Office of Workers' Compensation Programs are affirmed with regard to the finding that the employee's coronary artery disease was not aggravated by factors of his employment. With regard to any periods of disability due to the employment-related chest pain, the case is remanded to the Office for action consistent with this decision of the Board.

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Washington, DC

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⁹ *Sylvia Lucas (Richard Lucas)*, 32 ECAB 1582 (1981) (the Board found that the evidence established that the employee's symptom of angina pectoris was related to factors of his employment and that the employee was entitled to compensation for the period of disability due to the angina pectoris).