

FACTUAL HISTORY

On August 1, 2002 appellant, then a 32-year-old letter carrier, filed a traumatic injury claim alleging that, on July 29, 2002, while delivering on her route, she passed out on a customer's steps. Appellant noted that the temperature that day was in the high 90s. She listed her injury as acute cardiovascular illness. In support of her claim, appellant submitted a July 31, 2002 medical note by Dr. Reginald J. Blaber, a Board-certified cardiologist, who stated:

“[Appellant] has an acute cardiovascular illness that will require her to be out of work for at least two weeks. She will be reevaluated in two weeks and further recommendations will follow. This event was likely related to the extremely high temperatures in which she was working. She carries a diagnosis of neurocardiogenic syncope (her heart stopped for 15 seconds during a tilt table test).”

On September 28, 2002 appellant explained that she passed out on July 29, 2002 while delivering mail and that prior to passing out she felt nauseous, light-headed and dizzy. She stated, “I was delivering my normal route and was not climbing hills or exceptionally steep steps. I was not carrying additional weight in my mailbag that day. It was determined that I was not dehydrated. The [temperature] that day was 95 [degrees] or higher.” She also noted that she passed out about 10 to 15 years ago at the beach after acute pain resulting from banging her finger and one time while driving and experiencing abdominal pain.

Appellant submitted a medical report dated July 29, 2002 from Dr. Blaber, who indicated that appellant was seen at Underwood Memorial Hospital. Appellant related to the physician that she lost consciousness while on her mail route that day and that she had episodes like this a few times in high school but no episodes over the prior 10 years. Dr. Blaber diagnosed “syncope, probably vasovagal type.” She was released from the hospital on July 31, 2002 with instructions to have a repeat tilt test in two weeks. This test was performed on August 14, 2002 and was interpreted by Dr. Matthew J. Sandler, a Board-certified internist with a subspecialty in clinical cardiac electrophysiology, as a recurrent markedly positive tilt table test.

In a medical report addressed to Dr. Blaber dated September 4, 2002, Dr. Francis E. Marchlinski, a Board-certified internist with subspecialty certificates in cardiovascular disease and clinical cardiac electrophysiology, indicated that appellant had malignant neurally mediated syncope. He noted that he was giving appellant pharmacologic therapy and that if this was not successful, a dual-chamber pacemaker may be indicated. Dr. Marchlinski recommended that appellant “abstain from driving or participating in her work environment until some control over this abnormal reflex can be obtained.” In a medical report dated September 29, 2002, Dr. Blaber again indicated that appellant may need a pacemaker.

In a medical report dated October 2, 2002, Dr. Marchlinski summarized appellant's treatment and noted that she had a malignant neurally mediated syncope refractory to pharmacologic therapy. He stated that the most appropriate recommendation would be to proceed with dual chamber pacemaker insertion along with pharmacologic therapy and repeat tilt table testing.

By decision dated October 30, 2002, the Office denied appellant's claim. The Office found that the evidence indicated that the syncope episode which appellant experienced as a result of her condition on July 29, 2002 did not occur in the performance of duty or arise out of a risk connected with her federal employment.

By letter dated November 20, 2002, appellant requested an oral hearing.

In a medical report to the Office dated September 4, 2002, Dr. Marchlinski opined that appellant did not contribute to the manifestation of the clinical syndrome as "this is an unfortunate circumstance that had occurred while she was in her work environment." He noted that the work setting "at the present time" would aggravate the syndrome and exacerbate further episodes.

In a medical report dated November 27, 2002, Dr. Marchlinski stated:

"[Appellant] is under my care for the treatment of malignant neurally mediated syncope. This condition became evident following a syncopal episode in July [2002]. At that time, she was working as a mail carrier and developed symptoms of dizziness, lightheadedness and nausea. She had frank syncope. Since that time, [appellant] has undergone a number of tilt table tests and she has been tried on pharmacologic therapy. Despite extensive pharmacologic therapy, she continued to have symptoms and in addition, continued to have markedly positive tilt tests with prolonged asystolic periods after only a short duration in the upright position. [Appellant] underwent pacemaker implantation on October 18, 2002. With the pacemaker therapy and a drug therapy, she is no longer having malignant symptoms.

"Neurally, mediated or neurocardiogenic syncope is an exaggerated normal reflex. This reflex can be triggered by standing upright for any length of time and leads to hypotension and bradycardia. This is a condition that was exacerbated and discovered during her job and her work conditions (walking and then standing still for periods of time) do tend to lead to further episodes. I am hopeful that with the therapy as described above, she will no longer have episodes. However, she was unable to work from the time of the July 29, [2002] episode until December 7, [2002]. It is my understanding that she was turned down for Workmen's Compensation. I do not quite understand this since the initial episode occurred while at the job and while her condition is not due to her job, the particular work condition that she has certainly led to her severe symptoms that day and there is a potential for them to recur despite the aggressive therapy that she is currently undergoing."

At the hearing held on August 5, 2003, appellant testified that she was still employed as a mail carrier for the employing establishment. At the time of her fainting spell, it was 95 degrees and humid and she had some prior episodes of dizziness and fatigue about 12 to 13 years prior. Appellant still experienced problems with dizziness, fatigue and nausea and that these episodes are usually worse when it is hot and humid.

In a medical report dated July 30, 2003 and received by the Office on August 28, 2003, Dr. Marchlinski stated:

“Neurally, mediated or neurocardiogenic syncope is an exaggerated normal reflex. This reflex can be triggered by standing upright for any length of time and leads to hypotension (low blood pressure) and bradycardia (slow heart beat). This is a condition that was exacerbated and discovered during her job and her work conditions (walking and then standing still for periods of time) do tend to lead to further episodes. I am hopeful that with the therapy as described above, she will no longer have episodes. However, she was unable to work from the time of the July 29, [2002] episode until December 7, 2002.

“The initial syncopal episode occurred while at the job and was directly related to the conditions of her job (strenuous activity during hot/humid weather). There is a potential for the symptoms to recur despite the aggressive therapy that she is currently undergoing.” (Emphasis in the original.)

By decision dated December 4, 2003, the hearing representative affirmed the Office’s October 30, 2002 decision denying appellant’s claim as he found that appellant had not established that she sustained an injury while in the performance of her federal employment.

By letter dated March 25, 2004, appellant, through her attorney, requested reconsideration. He noted that the hearing representative failed to consider Dr. Marchlinski’s addendum report dated July 30, 2003, which addressed a causal relationship between appellant’s syncopal episode and her job as a letter carrier. By decision dated June 30, 2004, the Office denied reconsideration. The Office found that Dr. Marchlinski’s report of July 30, 2003 was repetitive of the other reports and therefore not sufficient to warrant merit review.

LEGAL PRECEDENT

It is a well-settled principle of workers’ compensation law and the Board has so held, that an injury resulting from an idiopathic fall -- where a personal, nonoccupational pathology causes an employee to collapse and to suffer injury upon striking the immediate supporting surface and there is no intervention or contribution by any hazard or special condition of employment -- is not within coverage of the Federal Employees’ Compensation Act. Such an injury does not arise out of a risk connected with the employment and is therefore not compensable. However, as the Board has made equally clear, the fact that the cause of a particular fall cannot be ascertained or that the reason it occurred cannot be explained, does not establish that it was due to an idiopathic condition. This follows from the general rule that an injury occurring on the industrial premises during working hours is compensable unless the injury is established to be within an exception to such general rule.¹ If the record does not establish that the particular fall was due to an idiopathic condition, it must be considered as merely an unexplained fall, one which is distinguishable from a fall in which it is definitely proved that a physical condition preexisted the fall and caused the fall.

¹ *Margaret Cravello*, 54 ECAB ____ (Docket No. 03-256, issued March 24, 2003); *Santosh C. Verma*, 53 ECAB 266 (2001); *Morris Scanlon*, 11 ECAB 384 (1960).

The Board also notes that the mere existence of a personal, nonoccupational pathology does not settle the issue of entitlement to compensation. It is well established that when a factor of employment aggravates, accelerates or otherwise combines with a preexisting, nonoccupational pathology, the employee is entitled to compensation.²

ANALYSIS

In the instant case, there is no question that appellant fainted while delivering the mail on July 29, 2002. She was seen at the hospital immediately thereafter. Dr. Blaber, the physician who treated her at the hospital, diagnosed appellant with syncope and indicated that the incident was “likely related to the extremely high temperatures in which she was working.” Dr. Blaber also noted that although appellant had lost consciousness a few times in high school, she had no such incidents for the prior 10 years. Appellant was then seen by a cardiologist, Dr. Marchlinski. In a report dated November 27, 2002, Dr. Marchlinski stated that appellant’s malignant neurally mediated syncope became evident following a syncopal episode in July 2002, when she was working as a mail carrier. He noted that her condition “was exacerbated and discovered during her job and work conditions....” Dr. Marchlinski further noted that while her condition was not due to her job, “the particular work condition that she has certainly led to her severe symptoms that day....” Finally, in a report dated July 30, 2003, Dr. Marchlinski specifically attributed appellant’s initial syncopal episode to her job. He stated that the initial syncopal episode “was directly related to the conditions of her job (strenuous activity during hot/humid weather).”

Dr. Marchlinski clearly opined that appellant’s syncopal episode was directly related to the conditions of her job, specifically doing strenuous activity in hot/humid weather. This would tend to support that, although the underlying disease was not caused by appellant’s employment, it was aggravated by appellant’s employment activities of July 29, 2002 and could indicate that appellant was entitled to compensation for this aggravation.³ The Board notes that there is no medical evidence of record negating causation.

Proceedings under the Act are not adversarial in nature nor is the Office a disinterested arbiter. While the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence. It has the obligation to see that justice is done.⁴

The Board will remand the case to the Office for preparation of a statement of accepted facts concerning appellant’s working conditions and referral to an appropriate medical specialist to determine whether appellant sustained any aggravation or exacerbation of her preexisting

² See *Charles A. Duffy*, 6 ECAB 470 (1954) (aggravation of preexisting disease or defect is as compensable as an original or new injury); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Idiopathic Falls*, Chapter 2.804.9(b) (August 1992) (if some factor of the employment intervened or contributed to the injury resulting from the fall, the employee has coverage for the results of the injury but not for the idiopathic condition that caused the fall).

³ See *Charles A. Duffy*, *supra* note 2.

⁴ *William B. Webb*, 56 ECAB ____ (Docket No. 04-1413, issued November 23, 2004).

neurocardiogenic syncope as a result of her employment factors.⁵ Following this, and any other further development as deemed necessary, the Office shall issue an appropriate merit decision on appellant's claim.

CONCLUSION

The Board finds that the case is not in posture for a decision.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated June 30, 2004 and December 4, 2003 are set aside and this case is remanded for further consideration consistent with this opinion.⁶

Issued: August 16, 2005
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

⁵ When determining compensability under the Act the issue is not whether the employee's work activities are similar to those carried out by large numbers of other employees similarly situated, nor what the effects of "similar" working conditions are on "normal employees." The issue becomes whether "the work activities and working conditions *of the particular employee* whose claim is under consideration caused or aggravated" that employee's condition. (Emphasis in the original.) See *e.g.*, *Lucille Edith Andre*, 9 ECAB 791, 792-93 (1958).

⁶ In light of the disposition of this issue, the second issue is moot.