



claim for anxiety reaction with depression and permanent aggravation of paranoia. She received compensation for temporary total disability on the periodic rolls.

On May 24, 2001 appellant filed a claim for compensation by widower. A death certificate noted that the employee died on April 3, 2001. The cause of death was listed as complications from dementia due to, or as a consequence of, arteriosclerotic cardiovascular disease. Hypertension was noted to be a significant condition contributing to death but not resulting in the underlying cause. Appellant was listed as the surviving spouse.

In an attending physician's report dated May 23, 2001, Dr. Rodney J. Oakes, Board-certified in family practice, indicated that the employee's death was due to anxiety reaction with depression and permanent aggravation of paranoia: "The problems outlined ... exerted an effect on this patient's worsening of dementia." In an attending physician's report dated May 24, 2001, Dr. Charles L. Bensonhaver, a Board-certified psychiatrist, also indicated that the employee's death was due to anxiety, depression and paranoia: "Due to [anxiety, depression and paranoia] her dementia was harder to manage and she deteriorated more rapidly than I would have expected without those [conditions]."

The Office referred the case record and a statement of accepted facts to Dr. Joseph A. Virzi, a Board-certified psychiatrist, for a second opinion. In a report dated December 10, 2001, he concluded that the employee's death was not causally related to her accepted conditions of anxiety reaction with depression and permanent aggravation of paranoia.

In a decision dated January 4, 2002, the Office denied appellant's claim for compensation. On November 20, 2003 an Office hearing representative vacated the January 4, 2002 decision and remanded the case for a supplemental opinion from Dr. Virzi. When Dr. Virzi did not respond to the Office's requests for a further report, the Office referred the case record and an amended statement of accepted facts to Dr. Anjali A. Pathak, a Board-certified psychiatrist, for a second opinion.

In a report dated May 10, 2004, Dr. Pathak related the employee's history of injury, her medical history and her cause of death. He reviewed testimony from an April 7, 2001 hearing and medical reports from the employee's physicians. Dr. Pathak concluded that a review of the employee's records did not support the claim that her death was causally related to her accepted anxiety reaction with depression and permanent aggravation of paranoia, which were functional mental illnesses. He noted that medical documentation was consistent with a diagnosis of dementia, an organic mental disorder. Physical medicine offered a consistent notation from the employee's fifth decade of the presence of congestive heart failure and arteriosclerotic cardiovascular disease: "This indicates that her vascular health was noted to be a problem, and a medical condition which can directly cause the development of dementia." He added that the end-stage description of the employee's behavior and death was consistent with the progression that would be associated with typical complications of dementia.

Dr. Pathak stated emphatically that events do not cause dementia, and the employee died from complications of that disorder. "That being the case," he continued, "there can be no causal relationship between the [employee's] federal employment and the cause of her death. She could not have witnessed any events in the workplace to spawn the development of dementia, nor is

there any credible medical evidence that a work situation in 1974 could lead to the development of an organic mental disorder resulting in death in 2001.”

In a decision dated May 17, 2004, the Office denied appellant’s claim for compensation on the grounds that Dr. Pathak’s opinion represented the weight of the medical evidence and established that the employee’s death was not causally related to her federal employment.

Appellant requested an oral hearing before an Office hearing representative. He submitted extensive medical records and testified, together with his daughter, at the hearing, which was held on October 25, 2004.

In a decision dated February 22, 2005, the hearing representative affirmed the denial of appellant’s claim for compensation.

### **LEGAL PRECEDENT**

The United States shall pay compensation for the death of an employee resulting from personal injury sustained while in the performance of duty.<sup>1</sup> If death results from an injury sustained in the performance of duty, the United States shall pay a monthly compensation equal to 50 percent of the monthly pay of the deceased employee to the widow or widower, if there is no child.<sup>2</sup>

A claimant has the burden of proving by the weight of the reliable, probative and substantial evidence that the employee’s death was causally related to her federal employment. This burden includes the necessity of furnishing medical opinion evidence of a cause and effect relationship based on a complete factual and medical background. The opinion of the physician must be one of reasonable medical certainty and must be supported by medical rationale.<sup>3</sup>

### **ANALYSIS**

The medical evidence submitted in support of appellant’s claim for compensation includes Dr. Oakes report of May 23, 2001, finding that the employee’s anxiety reaction with depression and permanent aggravation of paranoia “exerted an effect” on her worsening dementia. Dr. Bensonhaver reported on May 24, 2001 that the employee’s accepted conditions made her dementia harder to manage and caused her to deteriorate more rapidly than he otherwise would have expected.

Although these reports generally support a causal relationship between the employee’s May 25, 1974 employment injury and her death on April 3, 2001, they are of diminished probative value. First, it is not clear that the physicians based their conclusions on a complete

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<sup>1</sup> 5 U.S.C. § 8102(a).

<sup>2</sup> *Id.* at § 8133(a)(1).

<sup>3</sup> *Jacqueline Brasch (Ronald Brasch)*, 52 ECAB 252 (2001).

factual and medical background. There is no description of the May 25, 1974 incident at work.<sup>4</sup> Second, these reports provided no medical reasoning to support the stated conclusions on causal relationship. Dr. Oakes offered no details about the effect to which he referred. He did not explain the pathological mechanism or relationship. The basis for how he was able to deduce that such a process was responsible, at least in part, for the employee's death. Dr. Bensonhaver did not explain how the accepted conditions made her dementia harder to manage or how that contributed to her death. He offered no support for his statement that the accepted conditions had caused her to deteriorate more rapidly.<sup>5</sup> Because the opinions of Dr. Oakes and Dr. Bensonhaver are brief form reports, without references to supporting medical documentation and no supporting medical rationale, the Board finds that they are insufficient to discharge appellant's burden of proof to establish a causal relationship between the employee's accepted employment injury and her death.

Dr. Pathak's May 10, 2004 report reviewed the employee's history of injury, her medical documentation and her cause of death. Dr. Pathak not only reported that there could be no causal relationship between the employee's federal employment and the cause of her death, he provided reasons for his opinion. He noted that the employee's vascular health problems, which included the presence of congestive heart failure and arteriosclerotic cardiovascular disease, stood as an organic explanation for the development of her dementia, an organic mental disorder the progression and complications of which were consistent with the end-stage description of her behavior and death. Moreover, Dr. Pathak explained that events do not cause dementia, that the employee could not have witnessed any event in the workplace in 1974 to cause the development of an organic mental disorder resulting in her death in 2001.

The Board finds that Dr. Pathak's May 10, 2004 report is based on a proper factual and medical background. The Office provided him with the case record and a statement of accepted facts, and he demonstrated an understanding of all the relevant material. The Board also finds that his discussion of the issue of causal relationship is a considered one, sufficiently well reasoned that it represents the clear weight of the medical evidence.<sup>6</sup> As the weight of the medical evidence negates any causal relationship between the employee's May 25, 1974 employment injury and her death on April 3, 2001, the Board finds that appellant has not met his burden of proof to establish his entitlement to benefits under the Federal Employees' Compensation Act.

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<sup>4</sup> Medical conclusions based on inaccurate or incomplete histories are of little probative value. *See 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).

<sup>5</sup> *See Connie Johns*, 44 ECAB 560 (1993) (holding that a physician's opinion on causal relationship must be one of reasonable medical certainty, supported with affirmative evidence, explained by medical rationale and based on a complete and accurate medical and factual background).

<sup>6</sup> The opinions of Dr. Oakes and Dr. Bensonhaver, by contrast, are of too little probative value to create a conflict warranting further development under 5 U.S.C. § 8123(a).

**CONCLUSION**

The Board finds that appellant has not met his burden of proof to establish that the employee's death on April 3, 2001 was causally related to her May 25, 1974 employment injury. The only medical opinion evidence supporting his claim is of diminished probative value, and a weightier, more convincing medical opinion negates the element of causal relationship.

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 22, 2005 and May 17, 2004 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: November 7, 2005  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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