

benzene. Appellant identified October 1, 2000 as the date he first became aware of his illness and March 15, 2004 as the date he first realized his illness was employment related. He explained that he worked in close proximity to reactor compartments on various ships and nuclear submarines and was exposed to ionizing radiation, sometimes for hours at a time. Appellant also claimed exposure to neutron and gamma radiation while conducting hull surveys to determine radiation levels. He indicated that, on several occasions, he received the maximum allowable radiation dosage for a given time period. Additionally, appellant claimed that he was exposed to benzene on numerous occasions. This substance was allegedly present in many of the coatings and adhesives he applied to ships and submarines.

Appellant submitted July 2001 to March 2004 treatment records from the University of Utah Hospitals and Clinics. Dr. Martha J. Glenn, a Board-certified internist specializing in oncology and hematology, treated appellant for MDS and AML. Appellant developed blood blisters in his mouth in September 2000 and a subsequent bone marrow biopsy revealed MDS. This condition developed into AML by February 2001 and appellant began treatment with Dr. Glenn. He was initially hospitalized on February 6, 2001 at which time he underwent chemotherapy. A repeat bone marrow on July 29, 2001 showed no evidence of leukemia. Appellant continued to follow up with Dr. Glenn on a regular basis and his leukemia was in remission for more than three years following treatment.

The Office also received documents from appellant regarding the relationship between benzene exposure and leukemia. Appellant also provided a list of products used by the military that include benzene, such as paint thinner, naphtha and aluminum heat resistant coatings.

In an undated letter, the Office requested that the employing establishment provide information regarding appellant's claimed occupational exposure to benzene and radiation. The Office also wrote to appellant requesting additional information regarding his alleged occupational exposure as well as medical evidence addressing the causal relationship between his leukemia and his exposure to benzene and radiation.

The Office received a copy of appellant's employee medical records covering the period of January 1968 to August 15, 1990. The records included various treatment notes, employee physical examinations from June 7, 1983, October 29, 1986 and September 25, 1989 and an August 15, 1990 termination medical examination. The employing establishment also provided documentation concerning appellant's radiation exposure from June 1, 1964 to July 29, 1989. His total radiation exposure was reported to be 7.504 roentgen equivalent man (REM), the majority of which occurred in 1970 and 1971.² The employing establishment did not provide any specific information regarding appellant's claimed benzene exposure.

In a letter dated February 28, 2005, appellant described his daily benzene exposure beginning December 1963, when he was an apprentice painter. He also listed more than 20 products he used that contained benzene. From December 1967 through 1973, appellant was reportedly exposed to benzene and radiation almost daily. During this timeframe he spent

² Following appellant's retirement, the employing establishment issued a February 14, 1991 report outlining his radiation exposure while employed at Mare Island Naval Shipyard. The report, prepared by H.J. Black, Director of Radiation Health, indicated that permissible lifetime radiation exposure was 135 REM.

approximately six months brush painting in reactor compartments. Appellant also stated that, as a foreman painter from mid-1973 to 1982, he spent a minimum of five hours per day breathing benzene-laced paint fumes inside submarines. From June 1982 to August 1990, appellant worked as a general foreman painter and he spent two to three hours a day on job sites. He described his benzene exposure during this timeframe as light to moderate.

In an April 12, 2005 report, Dr. Glenn stated that appellant was diagnosed with MDS in the fall of 2000, which was closely followed by a diagnosis of AML in early 2001. She further indicated that appellant was treated successfully with intensive chemotherapy and he had no evidence of recurrence of AML or MDS. Dr. Glenn explained that exposure to either ionizing radiation or organic solvents, mainly benzene, had been shown to play a role in the pathogenesis of AML and MDS. Dr. Glenn believed that appellant's "exposure to radiation and/or benzene while in the Navy may have caused or contributed to his MDS and AML."

By decision dated June 15, 2005, the Office denied appellant's occupational disease claim. The Office found that Dr. Glenn's April 12, 2005 report was not sufficiently rationalized to establish a causal relationship between appellant's employment exposure and his leukemia.

LEGAL PRECEDENT

A claimant seeking benefits under the Federal Employees' Compensation Act³ has the burden of establishing the essential elements of his claim by the weight of the reliable, probative and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.⁴

To establish that an injury was sustained in the performance of duty, a claimant must submit: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying 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 diagnosed condition is causally related to the employment factors identified by the claimant.⁵

³ 5 U.S.C. § 8101 *et seq.*

⁴ 20 C.F.R. § 10.115(e), (f) (1999); *see Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996). Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence. *See Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors. *Id.*

⁵ *Victor J. Woodhams*, *supra* note 4. The fact that the etiology of a disease or condition is unknown or obscure does not relieve an employee of the burden of establishing a causal relationship or otherwise shift the burden of proof to the Office to disprove an employment relationship. *Judith J. Montage*, 48 ECAB 292, 294-95 (1997).

ANALYSIS

Appellant's medical records are not particularly probative on the question of whether there is a causal relationship between his employment and his MDS and AML. While these records demonstrate that appellant was periodically monitored for his occupational radiation exposure, the most recent employee health records predate appellant's diagnosis by at least a decade and they do not specifically address the etiology of his leukemia. The Office gleaned from these records a single reference to a so-called January 1983 "severe blood disorder" and criticized Dr. Glenn for not discussing this condition in her April 12, 2005 report. Appellant, however, did not have a severe blood disorder in 1983.⁶ The record indicates that appellant had a month-long battle with cytomegalovirus; a fairly common virus of the herpes virus family. A February 14, 1983 notation in appellant's employee health records reveals that he was diagnosed with cytomegalovirus and was on sick leave from January 17 to February 14, 1983. Appellant's personal physician released him to return to regular duty upon full recovery.⁷ The medical records provide some relevant background information; however, they are not particularly instructive as to the etiology of appellant's claimed condition.

Appellant's July 2001 to March 2004 treatment records also fail to establish a causal relationship between his employment and his leukemia. These records focus exclusively on the diagnosis and treatment of appellant's MDS and AML while under Dr. Glenn's care. Although the Office criticized Dr. Glenn for not providing a complete discussion of appellant's treatment in her April 12, 2005 report, the more than 60 pages of treatment records submitted provide a virtual roadmap of the care he received over a 3-year period. But again, this evidence does not specifically address the alleged causal relationship between appellant's occupational exposure and his leukemia.

Dr. Glenn's April 12, 2005 report is the only medical evidence of record that purports to establish a causal relationship between appellant's benzene and radiation exposure and his leukemia. The employing establishment provided information regarding appellant's accumulated lifetime radiation exposure. However, no such information was provided regarding appellant's benzene exposure. Dr. Glenn's April 12, 2005 report does not include a specific occupational exposure to either benzene or radiation. Without an accurate occupational history, Dr. Glenn could not offer a rationalized opinion on causal relationship.⁸ Moreover, her report is speculative. Dr. Glenn did not unequivocally attribute appellant's leukemia to benzene and

⁶ Appellant completed a medical history form in conjunction with an October 29, 1986 employee physical. At that time he noted that he was treated in January 1983 for a "severe blood disorder." In a similar report dated June 7, 1983, appellant described his January 1983 condition as a "blood disorder," but the reviewing physician commented that it was only a "viral infection" from which appellant had a "good recovery."

⁷ It is not clear upon what medical basis the Office relied in finding that a fairly common viral infection in 1983 would be relevant to a determination of the etiology of appellant's leukemia, which was diagnosed almost eight years later.

⁸ The Board notes that the Office did not prepare a statement of accepted facts regarding appellant's occupational exposure to either benzene or radiation. Additionally, the Office appears to have accepted without question the employing establishment's assertion that appellant's radiation exposure was within acceptable limits. Neither the employing establishment nor the Office appears qualified to offer a medical opinion on whether appellant's occupational exposure caused or contributed to his diagnosed conditions.

radiation exposure. She noted that medical research had demonstrated a relationship between AML, MDS and exposure to ionizing radiation and benzene. With respect to appellant's specific case, Dr. Glenn indicated that his occupational exposure "*may* have caused or contributed to his MDS and AML." (Emphasis added.) Medical opinions that are speculative or equivocal in character are of little probative value in determining causal relationship.⁹ While the Office perhaps could have done more to assist in the development of the record particularly with respect to appellant's occupational exposure to benzene, the burden nonetheless rests with appellant to establish that his claimed condition is related to his employment.¹⁰ Dr. Glenn merely opined as to the possibility of a causal relationship and this is not sufficient to discharge appellant's burden of proof under the Act.¹¹

CONCLUSION

The Board finds that appellant failed to establish that his MDS and AML are related to his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the June 15, 2005 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 4, 2005
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

⁹ *Frank Luis Rembisz*, 52 ECAB 147, 150 (2000).

¹⁰ Proceedings under the Act are not adversarial in nature and the Office is not a disinterested arbiter. While the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence to see that justice is done. *William J. Cantrell*, 34 ECAB 1223 (1983).

¹¹ *Frank Luis Rembisz*, *supra* note 9.