

**United States Department of Labor
Employees' Compensation Appeals Board**

JAY R. WENGER, Appellant

and

**DEPARTMENT OF THE AIR FORCE,
LACKLAND AIR FORCE BASE, TX, Employer**

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**Docket No. 06-430
Issued: April 11, 2006**

Appearances:

Dona J. Wenger, for the appellant

Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On November 15, 2005 appellant filed a timely appeal from a decision of the Office of Workers' Compensation Programs dated September 14, 2005, which found that he did not sustain an injury causally related to factors of his federal employment. 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 met his burden of proof to establish that he has any stress-related cardiovascular condition causally related to his federal employment.

FACTUAL HISTORY

On July 5, 2005 appellant, then a 56-year-old supervisory facility operations specialist, filed a Form CA-1, traumatic injury claim, alleging that on June 16, 2005 he sustained chest and throat pain, shortness of breath and sweating while writing a memorandum counseling an employee. He did not stop work but noted that his symptoms worsened. By letter dated July 11, 2005, the Office informed appellant of the evidence needed to support his claim. Appellant was

informed that it was crucial that he provide a physician's opinion supported by a medical explanation as to how the reported work incident caused or aggravated the claimed injury.

In response, appellant submitted a stress echocardiogram report dated March 29, 2005. Dr. Laura O. Jacobs, Board-certified in internal medicine and cardiology, advised that the study was normal with no evidence of prior myocardial infarction or ischemia. In an emergency room report from Wilford Hall Medical Center, an employing establishment hospital, dated June 16, 2005, Drs. Andrew E. Muck and Allen D. Holder advised that appellant had complained of chest pain and shortness of breath. Cardiac enzymes and chest x-ray were negative and the diagnoses were supraventricular tachycardia and chest pain. Appellant was transferred to a civilian hospital. In a June 17, 2005 consultation report, Dr. Kenneth M. Leclerc, Board-certified in internal medicine and cardiology, noted that appellant had been admitted to Southwest Texas Methodist Hospital on June 16, 2005 for evaluation of chest pain, elevated troponin I and supraventricular tachycardia. He noted appellant's report of a two-hour history of chest pain and shortness of breath with previous similar episodes. Electrocardiogram demonstrated normal sinus rhythm, and Dr. Leclerc diagnosed paroxysmal supraventricular tachycardia which was medically aborted. In an addendum dated July 22, 2005, the physician reported that "it should be noted that [appellant's] episode of tachycardia occurred while under the stress of writing a counseling statement. This stress could have been the precipitating factor."

In a September 25, 2005 report, an Office medical adviser advised that appellant had a cardiac tachyarrhythmic condition, etiology undetermined. He opined that there was no evidence of record which related this condition to appellant's job. By decision dated September 14, 2005, the Office denied the claim on the grounds that the medical evidence of record failed to establish that appellant had any condition causally related to his federal employment.

LEGAL PRECEDENT

To establish his claim that he sustained a stress-related condition in the performance of duty, appellant must submit the following: (1) medical evidence establishing that he has such a condition; (2) factual evidence identifying employment factors or incidents alleged to have caused or contributed to the condition; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to his stress-related condition.¹ If a claimant does implicate a factor of employment, the Office should then determine whether the evidence of record substantiates that factor. When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, the Office must base its decision on an analysis of the medical evidence.²

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. In the case of *Lillian Cutler*,³ the Board explained that there are distinctions as to the type of employment situations giving rise to a

¹ *Leslie C. Moore*, 52 ECAB 132 (2000).

² See *Dennis J. Balogh*, 52 ECAB 232 (2001).

³ 28 ECAB 125 (1976).

compensable emotional condition arising under the Federal Employees' Compensation Act.⁴ There are situations where an injury or illness has some connection with the employment but nevertheless does not come within coverage under the Act.⁵ When an employee experiences emotional stress in carrying out his or her employment duties, and the medical evidence establishes that the disability resulted from an emotional reaction to such situation, the disability is generally regarded as due to an injury arising out of and in the course of employment. This is true when the employee's disability results from his or her emotional reaction to a special assignment or other requirement imposed by the employing establishment or by the nature of the work.⁶

Causal relationship is a medical issue, and the medical evidence required to establish a causal relationship is rationalized medical evidence.⁷ Rationalized medical evidence is medical evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁸ Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁹

ANALYSIS

The Board finds that the implicated factor of writing a counseling letter to an employee would be a compensable factor of employment as it pertains to appellant's regular supervisory job duties.¹⁰ The implicated incident constitutes a compensable factor. The Board finds however that the medical evidence of record is insufficient to establish appellant's claim. A March 29, 2005 stress echocardiogram study was interpreted as normal and predated the claimed injury. In an emergency room report dated June 16, 2005, Drs. Muck and Holder diagnosed supraventricular tachycardia and chest pain. However, the physicians did not offer an opinion regarding the cause of these conditions. The Board has held that medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.¹¹ Therefore, these reports are insufficient to meet

⁴ 5 U.S.C. §§ 8101-8193.

⁵ See *Robert W. Johns*, 51 ECAB 137 (1999).

⁶ *Lillian Cutler*, *supra* note 3.

⁷ *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

⁸ *Leslie C. Moore*, *supra* note 1; *Gary L. Fowler*, 45 ECAB 365 (1994).

⁹ *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

¹⁰ *Lillian Cutler*, *supra* note 3.

¹¹ *Michael E. Smith*, 50 ECAB 313 (1999).

appellant's burden to establish that he sustained a stress-related condition causally related to the accepted employment factor.

In a July 22, 2005 addendum to his June 17, 2005 cardiology consultation, Dr. Leclerc advised that appellant's episode of tachycardia "occurred while under the stress of writing a counseling statement [which] could have been the precipitating factor." The Board finds this report also insufficient to meet appellant's burden. While the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute certainty, neither can such opinion be speculative or equivocal.¹² The opinion of a physician supporting causal relationship must be one of reasonable medical certainty that the condition for which compensation is claimed is causally related to federal employment and such relationship must be supported with affirmative evidence, based upon a complete and accurate medical and factual background of the claimant.¹³ Dr. Leclerc couched his opinion in speculative language. An Office medical adviser advised that appellant's tachycardia was of undetermined origin.

By letter dated July 11, 2005, the Office informed appellant that it was crucial that he provide a physician's opinion explaining how the reported work incident caused his condition. Appellant did not submit such evidence in this case.

CONCLUSION

The Board finds that appellant failed to meet his burden of proof to establish that he has a cardiovascular condition causally related to his federal employment.

¹² *Patricia J. Glenn*, 53 ECAB 159 (2001).

¹³ *Bonnie Goodman*, 50 ECAB 139 (1998).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated September 14, 2005 be affirmed.

Issued: April 11, 2006
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