

FACTUAL HISTORY

This case has previously been before the Board. The Office accepted that appellant, a 48-year-old engineer, slipped and fell in the performance of duty on March 10, 1975 and sustained abrasions of the left buttock and right knee, extruded L4-5 disc, left; lumbosacral strain; prolapsed internal hemorrhoids, depressive reaction, neurogenic bladder dysfunction; prostatitis; sexual dysfunction; gastric ulcer; right direct inguinal hernia; aggravation of cervical spondylosis; urinary tract infection and depressive neurosis. On July 23, 1998 appellant received a schedule award for 28 percent impairment of his penis. He appealed this decision to the Board. By decision dated January 16, 2001,¹ the Board affirmed the July 23, 1998 schedule award decision. The facts and the circumstances of the case as set out in the Board's prior decision are adopted herein by reference.

In a report on April 20, 1999, Dr. Claude L. Kinzer, an attending Board-certified family practitioner, attributed appellant's high cholesterol to his employment injury. He stated that appellant's accepted depression as well as medications for chronic pain caused side effects of lethargy and drowsiness, which made it impossible for appellant to carry out an adequate exercise regimen to reduce his high cholesterol. Dr. Kinzer stated that appellant's injury had aggravated a previously existing condition of high cholesterol and concluded that but for appellant's employment injury he could have reduced his cholesterol to an acceptable level by diet and exercise.

The Office medical adviser reviewed this report on December 6, 1999 and denied payments for appellant's medications for the treatment of hypertension and high cholesterol.²

In a report dated February 19, 2003, Dr. Kinzer opined that appellant's chronic depression was the probable cause of or a major contributor to appellant's cardiovascular disease. He stated that in October 2001 appellant's aortic valve was found to be regurgitating, the left ventricle wall was thickened and the ventricular ejection rate was low with ischemia evident. Appellant underwent a triple bypass and implantation of a bovine aortic valve on May 16, 2002. Dr. Kinzer stated that cardiovascular disease was closely related to depression and opined that appellant's depression "contributed in a major way to this patient's cardiovascular disease." He submitted an article on the link between depression and coronary heart disease.

Appellant requested that the Office accept his claim for cardiovascular disease as a result of his accepted employment injury of March 10, 1975. On Office July 16, 2003 the requested additional medical evidence in support of appellant's claim. Appellant submitted a series of reports from Dr. M.A. Khan, a cardiologist, dated October 19, 2001 through December 16, 2002. Dr. Khan addressed appellant's progressive coronary artery disease and resulting surgery. In a report dated May 3, 2004, Dr. Carl J. Gessler, Jr., a Board-certified cardiologist and partner of Dr. Khan, noted appellant's diagnosed condition of coronary artery disease. Appellant requested

¹ Docket No. 99-813 (issued January 16, 2001).

² The Office has not issued a final decision on this issue and the Board will not address it for the first time on appeal. 20 C.F.R. § 501.2(c).

a statement regarding the relationship between this condition and his longstanding history of depression and stress. Dr. Gessler stated: “In my opinion, the long period of depression and stress-inducing circumstances described in his history could exacerbate his known coronary artery disease.”

The Office medical adviser reviewed appellant’s claim on September 24, 2004 and stated: “His coronary disease is due to atherosclerosis that has many risk factors. There is no objective basis for the [claim] that depression aggravated the coronary disease.”

On March 2, 2005 the Office referred appellant, together with a statement of accepted facts and a list of questions to Dr. Harold. P. Settle, Jr., a Board-certified cardiologist, for a second opinion evaluation. Dr. Settle was asked to address whether appellant’s accepted depression caused or contributed to his coronary artery disease. In a report dated March 16, 2005, he noted appellant’s medical history and performed a physical evaluation. Dr. Settle stated:

“I had a lengthy review of the medical records and agree that [appellant] did have significant organic heart disease including aortic valvular insufficiency and triple vessel coronary artery disease. There are five major risk factors that lead to the development of coronary artery disease including cigarette smoking, hypertension, diabetes, elevated cholesterol and a positive family history. I would point out that [appellant] has a positive family history in that his father sustained coronary artery disease. [Appellant] is a former smoker and apparently does have lipid abnormalities.... Personality disorders and lifestyle choices are risk predictors for coronary artery disease but are not major risk factors. Thus I cannot agree that his back injury and depressive disorder have causal relationship in his coronary artery disease. The fact that he had aortic insufficiency certainly has no relationship to a depressive situation, it may be degenerative, possibly rheumatic, ... the most significant risk factor for aortic insufficiency is his history of hypertension.”

Dr. Settle noted that appellant submitted articles from the internet in support of his claim. However, the American Heart Association did not recognize a relationship between appellant’s back injury and his coronary artery disease.

By decision dated July 14, 2005, the Office denied appellant’s claim for a consequential coronary condition. The Office stated that the weight of the medical opinion evidence was with Dr. Settle, who provided a detailed history and complete factual and medical rationale in finding no relationship between appellant’s claimed coronary condition and his work injuries. The Office noted that Dr. Gessler provided only a statement of causal relationship with no supporting reasoning.

Appellant requested reconsideration of the July 14, 2005 decision on January 12, 2006. He submitted a review of the Office’s decision, the medical evidence, his sedentary lifestyle, his smoking history, his genetic background and articles regarding the relationship of depression and cardiovascular disease. Appellant also addressed the application of Board authority cited by the Office.

By decision dated February 2, 2006, the Office declined to reopen appellant's claim for further consideration of the merits. The Office found that appellant failed to submit relevant new evidence or legal argument in support of his request for reconsideration.

LEGAL PRECEDENT -- ISSUE 1

An employee seeking benefits under the Federal Employees' Compensation Act³ has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

It is an accepted principle of workers' compensation law that, when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is deemed to arise out of the employment, unless it is the result of an independent intervening cause.⁵ Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁶ A physician's opinion on the issue of causal relationship must be based on a complete factual and medical background of the claimant. 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 the claimant's employment.⁷

ANALYSIS -- ISSUE 1

Appellant alleged that his cardiovascular disease was causally related to his accepted employment injury of March 10, 1975. He submitted a report from Dr. Kinzer, a Board-certified family practitioner, dated February 19, 2003. Dr. Kinzer stated that cardiovascular disease was closely related to depression and that appellant's depression contributed to his cardiovascular disease. He did not offer any medical reasoning in support of his statement on causal relationship. Although Dr. Kinzer opined that appellant's cardiovascular disease was due to his employment injuries, he did not explain how appellant's depression caused or contributed to his cardiovascular disease. A medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship that is unsupported by medical rationale.⁸ As this report lacks the necessary medical rationale required to support the

³ 5 U.S.C. §§ 8101-8193.

⁴ *Juanita Pitts*, 56 ECAB ____ (Docket No. 04-1527, issued October 28, 2004).

⁵ *Albert F. Ranieri*, 55 ECAB 598, 602 (2004); A. Larson, *The Law of Workers' Compensation* § 10.01(2000).

⁶ *Steven S. Saleh*, 55 ECAB 169, 172 (2003).

⁷ *Id.*

⁸ *Robert S. Winchester*, 54 ECAB 191, 194 (2002).

conclusion of a causal relationship, it is of diminished probative value. This evidence is insufficient to meet appellant's burden of proof to establish that he developed cardiovascular disease as a consequence of his accepted employment injury of depression.

Dr. Kinzer submitted an article from the internet addressing the link between depression and coronary heart disease. However, he did not discuss the findings of the article as it related to appellant's diagnoses. The Board has held that excerpts from publications have little probative value in resolving medical questions unless a physician shows the applicability of the general medical principles discussed in the article to the specific factual situation in a case.⁹ As Dr. Kinzer failed to apply the principles in the article to appellant's situation, this evidence has little probative value. It is not sufficient to establish that appellant sustained a consequential injury of coronary artery disease due to his accepted condition of depression.

Appellant also submitted a report from Dr. Gessler, a Board-certified cardiologist, who noted appellant's diagnosed condition of coronary artery disease and his longstanding history of depression and stress. Dr. Gessler offered the opinion that appellant's depression and stress could exacerbate the diagnosed coronary artery disease. This opinion is speculative in nature. Dr. Gessler did not explain why he believed that appellant's depression and stress contributed to his coronary artery disease. This report does not contain any medical reasoning. A medical report without supportive medical rationale is of limited probative value and cannot establish appellant's claim for a consequential injury arising out of his accepted condition of depression.¹⁰

The medical evidence also consists of treatment reports from Dr. Khan, a cardiologist, who did not offer an opinion on the causal relationship between appellant's diagnosed cardiovascular conditions and his accepted employment injuries. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship.¹¹ As Dr. Khan did not attribute appellant's condition to his employment, these reports are not sufficient to establish a causal relationship between his coronary artery disease and his employment.

The remainder of the medical evidence negates a causal relationship between appellant's depression and his alleged consequential injury of coronary artery disease. The Office medical adviser reviewed appellant's claim on September 24, 2004 and stated that appellant had failed to submit an objective basis for the claim that depression aggravated his coronary disease. The Office referred appellant for a second opinion examination with Dr. Settle, a Board-certified cardiologist, who completed a report on March 16, 2005. Dr. Settle attributed appellant's coronary artery disease to a positive family history, appellant's history of smoking cigarettes and his lipid abnormalities. He disagreed with the conclusion that appellant's back injury and depressive disorder contributed to his coronary artery disease and noted that the American Heart Association did not recognize such a relationship.

⁹ *Roger G. Payne*, 55 ECAB 535, 542 (2004).

¹⁰ *Winchester*, *supra* note 8.

¹¹ *Conrad Hightower*, 55 ECAB 796, 800 (2003).

Appellant has not submitted the necessary rationalized medical opinion evidence in support of a causal relationship between his accepted employment injuries and his alleged consequential injury of coronary artery disease. He has failed to meet his burden of proof and the Office properly denied his claim.

LEGAL PRECEDENT -- ISSUE 2

To require the Office to reopen a case for merit review under section 8128(a) of the Act,¹² the Office's regulations provide that the evidence or argument submitted by a claimant must: (1) show that the Office erroneously applied or interpreted a specific point of law; (2) advance a relevant legal argument not previously considered by the Office; or (3) constitute relevant and pertinent new evidence not previously considered by the Office.¹³ When a claimant fails to meet one of the above standards, the Office will deny the application for reconsideration without reopening the case for review on the merits.¹⁴

ANALYSIS -- ISSUE 2

Appellant requested reconsideration of the July 14, 2005 decision on January 12, 2006 and submitted a summation of the case history in support of his request. He offered his review of the Office's decision, the medical evidence, his medical history and medical literature. He also disagreed with the Board precedent cited by the Office. Appellant did not submit any new medical evidence and did not provide legal authority in support of his disagreement with the Office's decision.

The issue for which appellant's claim was denied was the lack of medical evidence establishing a causal relationship between his accepted employment injuries and his alleged consequential injury of coronary artery disease. Appellant did not submit any new medical evidence or other relevant new evidence. He did not advance a new legal argument or a point of law not previously considered by the Office. He merely reviewed the evidence of record and expressed his disagreement with the Office's conclusions. The Board has held that evidence that does not address the particular issue involved does not constitute a basis for reopening a case.¹⁵ As appellant did not offer any relevant new evidence addressing the central issue of his claim nor any Board precedent nor other legal authority supporting that the Office's application of the law to the medical and other evidence in the case was inappropriate, appellant's request for reconsideration was not sufficient to require the Office to reopen his claim for review of the evidence.

¹² 5 U.S.C. §§ 8101-8193, § 8128(a).

¹³ 20 C.F.R. § 10.606(b)(2).

¹⁴ 20 C.F.R. § 10.608(b).

¹⁵ *Freddie Mosley*, 54 ECAB 255, 256 (2002).

CONCLUSION

Appellant did not submit the necessary rationalized medical opinion evidence to establish a causal relationship between his accepted employment injury and his alleged consequential injury of coronary artery disease. His January 12, 2006 request for reconsideration also failed to include the required relevant new evidence, new legal argument or establish that the Office erred in the July 14, 2005 decision. The Board finds that the decisions of the Office must be affirmed.

ORDER

IT IS HEREBY ORDERED THAT the February 2, 2006 and July 14, 2005 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: December 14, 2006
Washington, DC

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

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board