



claim for acute myocardial infarction. It appears that the Office later accepted the employee's claim for hypertension.<sup>1</sup>

On April 16, 1997 appellant filed a claim for death benefits as the employee's widow. She submitted a death certificate showing that the employee died on April 8, 1997. The immediate cause of death was probable myocardial infarction. Atherosclerotic heart disease and peripheral vascular disease were conditions leading to the immediate cause, and chronic renal failure was given as the underlying cause, or the disease initiating the events resulting in death.

On April 25, 1997 Dr. James E. Kolb, Board-certified in internal medicine and the employee's attending physician, reported that the direct cause of death was cardiac arrest and acute myocardial infarction, with end-stage renal disease the contributory cause. Asked whether death was due to the injury described, Dr. Kolb marked "yes." Asked to give medical reasons for his opinion "unless causal relationship is obvious," he reported: "Causal relationship is obvious."

The Office referred the case to a cardiologist for a second opinion, but on the prior appeal of this case, the Board found that the opinion obtained was not clear on whether the employee's death was causally related to his accepted employment injury.<sup>2</sup> The Board remanded the case for further development to obtain a well-reasoned opinion on the issue.

The Office referred the case, together with a statement of accepted facts, to Dr. Jerold M. Weiner, who is Board-certified in internal medicine with a primary specialty in cardiovascular disease. Dr. Weiner related appellant's history and offered the following opinion:

"It is my medical opinion that the claim of injury in 1971 did not contribute to his death on April 8, 1997. The exact mechanism of death is not known with certainty, but it appears that it was the result of significant coronary artery disease and left ventricular dysfunction. The proximate cause of his death was probably arrhythmia or shock from a new myocardial infarction, but it is unreasonable to blame his initial cardiac insult in 1971, as the cause of death. The clinical history of multiple infarctions in 1977, and 1978, led to considerable left ventricular dysfunction and congestive heart failure which argue for substantial progression of heart disease during those years. The infarction in 1971 did not cause significant left ventricular dysfunction or congestive heart failure.

"I am puzzled by your question about the patient's hypertension. You apparently have accepted that the claimant's hypertension resulted from his infarction. The

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<sup>1</sup> Through April 27, 1995 all references in the record to the accepted medical condition are to myocardial infarction. At some point the Office added hypertension to its nonfatal summary as a condition caused by injury. Hypertension first appears as a work-related condition in the Office's June 3, 1997 statement of accepted facts without the Office having developed this aspect of the medical evidence. The July 24, 2000 statement of accepted facts states that the Office has accepted that the employee's myocardial infarction was related to his employment activity on July 26, 1971. The statement later adds: "At one point the Office accepted the claim for 'hypertension.'"

<sup>2</sup> Docket No. 98-1923 (issued June 13, 2000).

history is clear that the patient's hypertension predated his infarction by two years. I do not feel that the claimant's hypertension contributed to his death in 1997 because blood pressures recorded during those years were not excessively high. In addition, the patient had many other medical problems which could predispose him to sudden death including end-stage renal disease with dialysis, and significant left ventricular dysfunction."

In a decision dated November 19, 2003, the Office denied appellant's claim for death benefits.

Appellant requested an oral hearing before an Office hearing representative. She submitted a January 20, 2005 report from Dr. Kolb, who related the employee's history and offered the following opinion:

"With respect to [appellant's] claim for widow's death benefits, it is clear that [the employee's] acute myocardial infarction of 1971 set into place a cascade of medical complications, which over the next 25 years, ultimately led to his death on April 8, 1997. I must confess that I am quite surprised that there is any question about the contribution of this work[-]related heart attack on his ultimate death from cardiac arrest. As I have noted in multiple places in his medical record, he was chronically ill and required frequent hospitalizations for complications of both coronary artery disease and renal failure. Therefore, let me restate for the record, that [the employee's] acute myocardial infarction of July 26, 1971 set into motion a cascade of medical complications due to which [he] ultimately suffered his fatal cardiac arrest on April 8, 1997."

Following a hearing on March 29, 2005, the Office hearing representative issued a decision on June 7, 2005 affirming the denial of appellant's claim. The hearing representative found that the weight of the medical evidence, as represented by the opinion of Dr. Weiner, established that the employee's death on April 8, 1997 was not causally related to the accepted work injury of July 26, 1971.

### **LEGAL PRECEDENT**

The United States shall pay compensation for the disability or death of an employee resulting from personal injury sustained while in the performance of his duty.<sup>3</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 his 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>4</sup>

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<sup>3</sup> 5 U.S.C. § 8102(a); *see id.* § 8133 (compensation in case of death).

<sup>4</sup> *E.g., Jacqueline Brasch (Ronald Brasch)*, 52 ECAB 252 (2001).

## ANALYSIS

Dr. Kolb, the attending internist, supported appellant's claim for death benefits when he reported on April 25, 1997 that the employee's death was due to the injury described. But he offered no medical reasoning for his opinion. Dr. Kolb stated only that causal relationship was "obvious." Later, in a January 20, 2005 report, he reported much the same thing. Dr. Kolb stated that it was "clear" that the employee's acute myocardial infarction in 1971 set into place a cascade of medical complications that ultimately led to his death on April 8, 1997. But again he offered no medical reasoning. Dr. Kolb simply confessed that he was quite surprised that there was any question about it, as the employee was chronically ill and required frequent hospitalizations for complications of both coronary artery disease and renal failure.

The Board finds that Dr. Kolb's opinion on causal relationship is of diminished probative or evidentiary weight. Although he expressed his opinion without reservation, he provided little discussion of the medical cause and effect that he saw so clearly. Whether the employee's acute myocardial infarction in 1971 set into place a cascade of medical complications that led to his death in 1997 is the ultimate fact to be established. Dr. Kolb failed to do more than merely state that causal relationship was obvious or clear. He did not discuss the medical principles and point to those parts of the medical record that support his stated conclusion.

Dr. Weiner, the referral internist, presented an argument for his conclusion. He reported that it was unreasonable to blame the initial cardiac insult in 1971 as the cause of the employee's death. Dr. Weiner explained that death appeared to be the result of significant coronary artery disease and left ventricular dysfunction, but after the employee's release from the hospital on August 14, 1971, there was no obvious evidence of congestive heart failure or left ventricular dysfunction. And in 1973 the employee was seen by a cardiologist who found no evidence of congestive heart failure. Then, the clinical history of multiple infarctions in 1977 and 1978 led to considerable left ventricular dysfunction and congestive heart failure, for which the employee was placed on treatment in 1980. This, Dr. Weiner reported, argued for a substantial progression of heart disease during those years.

Dr. Weiner also reported that, while hypertension was a considerable risk factor for the appearance of coronary artery disease, this did not contribute to the employee's death because recorded blood pressures were not excessively high.

Dr. Weiner offered an unequivocal opinion on the essential element of causal relationship, and he supported that opinion with medical rationale. The Board finds that Dr. Weiner's opinion outweighs the unreasoned opinion of Dr. Kolb and represents the weight of the medical evidence on the issue of causal relationship. Dr. Kolb's opinion carries little probative value and is insufficient to create a conflict warranting referral to an impartial medical specialist under 5 U.S.C. § 8123(a).

The Board finds that appellant has not met her burden of proof. The medical opinion evidence supporting her claim is deficient, and the additional evidence developed by the Office only weakens her claim further. The Board will therefore affirm the Office's June 7, 2005 decision denying benefits. Having secured an unequivocal medical opinion supported by medical rationale,

the Office has discharged its burden of going forward with the evidence. That burden now rests with appellant.

**CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish that the employee's death on April 8, 1997 was causally related to his work injury on July 26, 1971.

**ORDER**

**IT IS HEREBY ORDERED THAT** the June 7, 2005 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 17, 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