United States Department of Labor
Employees' Compensation Appeals Board

M.V., Appellant	)	
and	)	**Docket No. 07-437**
	)	**Issued: April 25, 2007**
U.S. POSTAL SERVICE, POST OFFICE, Aurora, CO, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On November 28, 2006 appellant filed a timely appeal from the December 2, 2005 merit decision of the Office of Workers' Compensation Programs, which denied his claim for compensation. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the merits of appellant's case.[1]

ISSUE

The issue is whether appellant sustained an injury in the performance of duty on July 30, 2005.

[1] The Board has no jurisdiction to review the new medical evidence appellant submitted on appeal, two reports from Dr. Mark C. Watts, a neurologist, as that evidence was not before the Office when it issued its December 2, 2005 decision. 20 C.F.R. § 501.2(c).

FACTUAL HISTORY

On August 3, 2005 appellant, then a 45-year-old clerk, filed a claim alleging that on July 30, 2005 he developed blurry vision, disorientation, fainting, trouble speaking and an inability to write, all of which he attributed to heat in the workplace. He received emergency medical attention that same day. Dr. Jordan R. Ship, the emergency department physician, related the following history:

> "[Appellant] is a 45-year-old male postal worker for the United States Postal Service. At 12:00 p.m. today he felt very fatigued, developed fatigue, lightheadedness, felt blurry vision, he felt very warm and had to sit down and stop working and felt like he was going to pass out. [Appellant] was in apparently a hot environment, and then after he was driven over here he is actually starting to feel better. He says the last week or so he has had episodes of _____ [sic] at work but today was really the worst. [Appellant] apparently was a little bit confused and having some difficulty with his speech and felt exhausted. The [employing establishment] was concerned about heat stroke, and he was brought over here for further evaluation. [Appellant] apparently had recent surgery in March, had a craniotomy at St. Joseph's Hospital. [He] himself is unable to [tell] us why he had the craniotomy, but since that time he apparently has had heat intolerance and has had some incomplete expressive aphasia or partial expressive aphasia and difficulty with work finding which gets worse when he is in the heat and better when he is out of the heat. [Appellant] did not have a syncopal episode in the [ ] today."

Dr. Ship saw no findings that concerned him. His clinical impression was near-syncope and mild partial expressive aphasia secondary to recent brain surgery. Dr. Ship released appellant to return to work with restrictions on lifting and staying out of a hot environment. In an attending physician's report dated July 30, 2005, he indicated that appellant's diagnosis of near-syncope was caused or aggravated by employment activity: "Patient describes increasing heat, heat intolerance since recent intracranial surgery."

On August 3, 2005 Dr. Ann T. Dickson, a specialist in occupational medicine, reported that appellant was a good, coherent historian. Appellant related to Dr. Dickson: "It was hot in the building and I nearly fainted." He reported three episodes of near-syncope at work over the past nine days. They all occurred when the warehouse he worked in became hot. It was not an air-conditioned facility, and the weather was recently very hot. Dr. Dickson offered the following assessment:

> "Near-syncope x 3: I [am] not sure whether this is related to the recent brain surgery, but the neurosurgeon's assistant seemed to think so. There may be an underlying cardiac, metabolic or neurologic cause. Immediate cardiac abnormalities ruled out in ED [Emergency Department] but needs more extensive work-up. Atypical seizures are also in the differential. I expect Tegretol level was checked in the ED but his PCP [primary care physician] needs to reevaluate that as well.

> "Though symptoms may have been precipitated by heat, with recurrent episodes clustered together, some underlying propensity is most likely the dominant factor. That being the case, this is not a work-related injury, but manifestations of an underlying condition."

Dr. Dickson diagnosed heat syncope, cleared appellant to return to regular duty and released him from care. On a duty status report also dated August 3, 2005, she wrote that appellant's near syncope was "not work related."

On October 21, 2005 the Office asked appellant to submit additional information, including an opinion from his physician on the relationship of the diagnosed condition to his employment activity. The Office asked appellant to have his physician discuss any preexisting condition secondary to surgery.

In a decision dated December 2, 2005, the Office denied appellant's claim on the grounds that the medical evidence did not establish that the claimed medical condition resulted from the established work-related events.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[2] has the burden of proof to establish the essential elements of his claim. When an employee claims that he sustained an injury in the performance of duty, he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He must also establish that such event, incident or exposure caused an injury.[3]

Causal relationship is a medical issue,[4] and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete factual and medical background of the claimant,[5] must be one of reasonable medical certainty,[6] and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.[7]

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[2] 5 U.S.C. §§ 8101-8193.

[3] *See Walter D. Morehead*, 31 ECAB 188, 194 (1979) (occupational disease or illness); *Max Haber*, 19 ECAB 243, 247 (1967) (traumatic injury). *See generally John J. Carlone*, 41 ECAB 354 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[4] *Mary J. Briggs*, 37 ECAB 578 (1986).

[5] *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

[6] *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

[7] *See William E. Enright*, 31 ECAB 426, 430 (1980).

ANALYSIS

The Office does not dispute that appellant worked in a hot warehouse on July 30, 2005. Appellant's consistent description of the work environment is sufficient, absent evidence to the contrary, to establish the implicated exposure.[8] The Board therefore finds that he experienced a specific exposure at the time, place and in the manner alleged. The question that remains is whether this exposure caused an injury.

The emergency physician, Dr. Ship, supported causal relationship on July 30, 2005. He completed an attending physician's form report indicating that appellant's diagnosis of near-syncope was caused or aggravated by employment activity. Dr. Ship explained that appellant had described increasing heat and heat intolerance since a recent intracranial surgery. The first problem with this opinion is that a diagnosis of "near-syncope" is a diagnosis of lightheadedness. It appears to be more a symptom than a diagnosis, a manifestation of some underlying condition not yet identified. As a practical matter, the Office requires a firm diagnosis of the underlying condition before it can authorize appropriate medical care and make appropriate payments.[9] A person who claims benefits for a work-related condition has the burden of establishing by the weight of the medical evidence a firm diagnosis of the condition claimed and a causal relationship between that condition and factors of federal employment.[10]

The second and related problem is that Dr. Ship did not fully explain how the heat in appellant's work environment caused or aggravated a medical condition. He simply repeated appellant's history of increasing heat and of heat intolerance since the intracranial surgery. Dr. Ship did not support his opinion with sound medical reasoning. Medical conclusions unsupported by rationale have little probative value.[11]

Dr. Dickson, the specialist in occupational medicine, diagnosed heat syncope but reported that appellant had experienced three "near-syncope" episodes. Although she stated that heat may have precipitated appellant's symptoms, with recurrent episodes clustered together, she raised the possibility that this was related to appellant's recent brain surgery or some underlying propensity. Dr. Dickson stated there might be an underlying cardiac, metabolic or neurologic cause. This does not preclude compensation because the aggravation of a preexisting disease or

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[8] An employee's statement alleging that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence. *Caroline Thomas*, 51 ECAB 451 (2000).

[9] *See Gaeten F. Valenza*, 39 ECAB 1349 (1988). When employment factors cause an aggravation of an underlying physical condition, the employee is entitled to compensation for periods of disability related to the aggravation. However, when the aggravation is temporary and leaves no permanent residuals, compensation is not payable for periods after the aggravation has ceased.

[10] *E.g., Patricia Bolleter*, 40 ECAB 373 (1988).

[11] *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 968 (1954); *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). *See generally Melvina Jackson*, 38 ECAB 443, 450 (1987) (discussing the factors that bear on the probative value of medical opinions).

defect is as compensable as an original or new injury.[12] But it does highlight that there is no firm diagnosis of the underlying condition and no sound medical reasoning explaining how the heat in appellant's work environment caused or aggravated that underlying condition.[13] Dr. Dickson concluded that appellant's near-syncope was not work related.

The medical opinion evidence does not establish the essential element of causal relationship. The Office asked appellant to have his physician submit an opinion on causal relationship, together with a discussion of any preexisting conditions, but no such evidence appears in the record. The Board will therefore affirm the Office decision denying appellant's claim for benefits.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that he sustained an injury in the performance of duty on July 30, 2005.

ORDER

IT IS HEREBY ORDERED THAT the December 2, 2005 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 25, 2007
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

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

[12] *E.g., Charles A. Duffy*, 6 ECAB 470 (1954).

[13] Dr. Dickson based her opinion that appellant's near-syncope was not work-related injury on a misunderstanding of workers' compensation law. It is not necessary to prove a significant contribution of employment factors to a condition for the purpose of establishing causal relationship. *Beth P. Chaput*, 37 ECAB 158 (1985).