

to his federal employment.¹ The history of the case is provided in the Board's prior decision and is incorporated herein by reference.

Appellant requested reconsideration and submitted a July 5, 2008 report from Dr. Alan Kravitz, an internist, who stated that appellant was negative for HIV in September 2005 and positive in August 2006, and during the interim he was "exposed to bodily fluids at his workplace including splashes of bloody instruments in his face and was poked by a sharp object (skin patch)." Dr. Kravitz further stated, "In reviewing your documents, the medical literature, and the test that you have set forth, it is clear that [appellant] had exposure that constitutes one of the ways this disease is acquired. Therefore, in my opinion, the accepted facts of HIV exposure are the direct and proximate result of the HIV diagnosis."

In a report dated August 19, 2008, Dr. Andrew Schaeckenbach, an employing establishment physician, stated that there was no evidence that appellant was exposed to contaminated fluids. He stated that HIV is fairly rare in the employing establishment patient population and there was no way to determine if an HIV exposure even occurred as no testing was performed. Dr. Schaeckenbach stated that there were many other risk factors that were much more likely to cause HIV than a potential workplace exposure to contaminated fluids.

By decision dated September 11, 2008, the Office reviewed the case on its merits. It denied modification finding the medical evidence from Dr. Kravitz was of insufficient probative value to establish the claim.

LEGAL PRECEDENT

A claimant seeking benefits under the Federal Employees' Compensation Act² 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.³

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.⁴

¹ Docket No. 08-513 (issued June 4, 2008).

² 5 U.S.C. §§ 8101-8193.

³ 20 C.F.R. § 10.115(e), (f) (2005); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

⁴ *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁵ 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.⁶ 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.⁷

ANALYSIS

On reconsideration, appellant submitted a July 5, 2008 report from Dr. Kravitz. With respect to the factual and medical background, Dr. Kravitz noted that he reviewed some documents, including a hearing representative's decision, as well as medical texts. He does not provide a complete and accurate history. For example, Dr. Kravitz stated that appellant had been poked by a sharp object at work. As the Board noted in the prior decision, the factual evidence did not establish a puncture wound at work. Appellant had referred to a needle stick incident after the HIV diagnosis, and a dental instrument incident, without providing further relevant detail. No additional factual evidence was presented on reconsideration. Although Dr. Kravitz stated there was evidence of a puncture wound, the evidence of record is not sufficient to establish a puncture wound incident at work.

In addition, the opinion on causal relationship is not supported by medical rationale. Dr. Kravitz referred generally to review of "documents" and the "test you have set forth" without providing additional detail. He stated that appellant's exposure was "one of the ways" that HIV is caused, and then appeared to conclude that it was the cause in this case, without further explanation. Dr. Kravitz did not acknowledge the lack of evidence that appellant was exposed to HIV contaminated fluids, discuss the other risk factors for HIV and explain why he believed appellant's HIV was causally related to his federal employment.

The Board finds that appellant did not submit probative medical evidence with a rationalized medical opinion, based on a complete and accurate background, on causal relationship between an HIV infection and appellant's federal employment. It is appellant's burden of proof, and the Board finds that appellant did not meet his burden in this case.

CONCLUSION

Appellant did not meet his burden of proof to establish an HIV infection causally related to his federal employment.

⁵ See *Robert G. Morris*, 48 ECAB 238 (1996).

⁶ *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁷ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated September 11, 2008 is affirmed.

Issued: March 12, 2009
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