

FACTUAL HISTORY

On December 17, 2010 appellant, then a 54-year-old customer services supervisor, filed an occupational disease claim alleging that he sustained injury on November 22, 2010 as a result of his employment. He experienced shortness of breath and chest pains as a result of performing an outdoor route inspection in snowy weather. Appellant noted that the route inspection was unscheduled and he was not dressed for cold and snow.

On December 17, 2010 the employing establishment's manager of customer services challenged appellant's statement, stating that his medical documentation only established a knee injury, which was not employment related.

In a January 7, 2011 letter, OWCP requested that appellant submit additional medical evidence in support of his claim. It advised that he should obtain a medical report that provided dates of examination and treatment, history of injury given by him to the physician, detailed descriptions of the findings, results of all testing, diagnosis and clinical course of treatment followed, and the physician's opinion supported by a medical explanation as to how the reported work incident caused or aggravated the claimed injury.

In response to OWCP's request, appellant submitted a statement dated January 28, 2011, in which he stated that he had earlier instances of chest discomfort in July 2010, but that he was not diagnosed with coronary artery disease. He provided two unsigned medical reports from Group Health. The two form reports from Group Health, dated July 13 and September 1, 2010 both noted appellant's complaints of chest discomfort and arm pain, and prescribed medication; the September 1, 2010 report concluded that appellant's "treadmill test looks OK."

Appellant also submitted a report from Dr. Elisabeth Jacobs, who is Board-certified in pulmonary disease and internal medicine, dated January 21, 2010. Dr. Jacobs provided an account of appellant's history and noted that he had been working out of doors on the day in question, as well as his physical examination results which were all within normal limits. She noted appellant's family history of cardiac disease and recommended a nuclear cardiac study. Regarding diagnosis and causal relationship, Dr. Jacobs noted that, while she was unable to determine at the time whether appellant's symptoms are related to cardiac ischemia, and that later evaluation on December 10, 2010 had indeed turned out to be negative, she had no doubt that his dyspnea (shortness of breath) and chest discomfort were related to his exertions at work. She explained that appellant's symptoms are caused by a combined effect from "cold, wet, unaccustomed exertion, deconditioning, and lack of suitable clothing."

In a March 24, 2011 decision, OWCP denied appellant's claim on the basis that, without a medical diagnosis, he failed to carry the burden of proof that he sustained an injury in the performance of duty.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden to establish the essential elements of his claim including the fact that the individual is an employee of the United States

³ 5 U.S.C. §§ 8101-8193.

within the meaning of FECA, that the claim was timely filed, that an injury was sustained in the performance of duty as alleged and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁴

A traumatic injury is defined by OWCP implementing regulations as “a condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected.”⁵

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.⁶ Pain is a symptom, not a compensable medical diagnosis.⁷

ANALYSIS

The Board notes initially that, while appellant filed a claim for occupational disease, as appellant’s allegations pertain to his work activities on one day/one shift in question, November 22, 2010, his claim is for traumatic injury. OWCP has accepted that appellant walked an outdoor route on the day in question during inclement weather.

The Board finds that appellant has not met his burden of proof to establish his claim of injury as he has submitted insufficient medical evidence to establish that he sustained a medical condition due to his employment factors of November 22, 2010.

OWCP informed appellant that he needed to submit a medical report that included a diagnosis of his medical condition and medical rationale explaining the relationship of that condition to his employment. Appellant submitted two unsigned medical reports from “Group Health” which did not provide a history of injury and only noted his complaints of chest pain. These reports are of no probative medical value. Probative, rationalized medical opinion evidence is medical evidence which includes a diagnosis of the medical condition, and rationalized opinion on whether there is a causal relationship between the employee’s diagnosed condition and the compensable employment factors. The opinion of the physician must be based on a complete factual and medical background of the employee, 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 employee.⁸ None of these reports were signed by a physician and they noted appellant’s symptoms. They lacked probative value as to diagnosis; history of injury; and causal connection relating the diagnosis to appellant’s work activities on November 22, 2010.

⁴ *Steven S. Saleh*, 55 ECAB 169 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ 20 C.F.R. § 10.5(ee).

⁶ *See Roy L. Humphrey*, 57 ECAB 238 (2005); *see Naomi A. Lilly*, 10 ECAB 560, 574 (1959).

⁷ *Robert Broome*, 55 ECAB 339, 342 (2004).

⁸ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

Appellant also submitted Dr. Jacob's January 21, 2011 report. However, Dr. Jacob's medical report also does not provide a firm diagnosis of appellant's condition. The report stated that appellant had been evaluated for myocardial ischemia, but the result was negative, and that appellant suffered from dyspnea and chest pains. Dyspnea and chest pains are both symptoms, not diagnosis of compensable medical conditions. Appellant must submit a medical report which provides a diagnosis of a medical condition, and which explains how appellant's employment activities on November 22, 2010 caused the diagnosed condition. As there is no medical evidence diagnosing his with a medical condition, he had failed to establish the medical component of his claim.

Appellant may submit additional evidence, together with a written request for reconsideration, to OWCP within one year of the Board's merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.606 and 10.607.

CONCLUSION

The Board finds that appellant failed to establish that he sustained a medical condition caused by his employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated March 24, 2011 is affirmed.

Issued: December 7, 2011
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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