

and reviewing detainee case files for up to eight hours each day, aggravated his preexisting bilateral glaucoma.² He complained of headaches, eye strain, floaters and halos around lights. Appellant stopped work on August 14, 2009 and became aware of the relationship between his condition and his employment in September 2009.

OWCP informed appellant in a September 30, 2009 letter that additional evidence was needed to establish his claim. It gave him 30 days to submit a physician's report explaining how his job duties aggravated a bilateral eye condition.

In an October 23, 2009 report, Dr. Alan P. Beck, an ophthalmologist, related that appellant experienced multiple symptoms such as irritation, redness, tearing, blurriness, photophobia and decreased peripheral vision, all of which were supported by the physical examination findings. He diagnosed advanced glaucoma, which was particularly symptomatic in the left eye, as well as abnormal retinal pigment epithelium changes, mild cataracts and keratitis secondary to appellant's glaucoma medications. Dr. Beck opined, "Employment, especially long periods of reading and computer work, may continue to be very irritating and aggravating to [appellant]'s condition."

By decision dated November 3, 2009, OWCP denied appellant's claim, finding the medical evidence insufficient to establish that his employment duties were causally related to his bilateral glaucoma.

Appellant's counsel requested reconsideration on November 2, 2010, contending that the medical evidence sufficiently established the claim.

In a December 8, 2009 report, Dr. Beck diagnosed primary open-angle glaucoma, secondary superficial punctate keratitis, due to medications and decreased peripheral vision. He advised that "long periods of reading and computer work are irritating and aggravation to the [appellant]'s condition." Dr. Beck noted that his blurred vision and decreased peripheral vision could post a risk if he had to make a quick decision based on visual information. He concluded:

"[A]fter a thorough review of [appellant]'s position description as a [d]eportation [o]fficer, it is my professional opinion, with a reasonable degree of medical certainty, that his everyday work duties, long hours of reading and computer work, have served to aggravate his preexisting glaucoma disease."³

On December 3, 2010 OWCP denied modification of the November 3, 2009 decision, finding Dr. Beck's December 8, 2009 report insufficient to establish causal relationship.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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

² Appellant provided an unsigned medical note dated August 1, 2008, which diagnosed glaucoma.

³ Dr. Beck noted that appellant was initially diagnosed with glaucoma in 2008.

States within the meaning of FECA, that the claim was timely filed within the applicable time limitation period, that an injury was sustained in the performance of duty as alleged and that any disabilities and/or specific conditions for which compensation is claimed are causally related to the employment injury.⁴ 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.⁵

Whether an employee actually sustained an injury in the performance of duty begins with an analysis of whether fact of injury has been established.⁶ To establish fact of injury in an occupational disease claim, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁷

Causal relationship is a medical issue and the evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is evidence which includes 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. The opinion of the physician must be based on a complete factual and medical background, 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 claimant.⁸

ANALYSIS

The evidence of record supports that appellant's duties entailed routine use of a computer and review of detainee case files and reflects a firm diagnosis of primary open-angle glaucoma. Nonetheless, the Board finds the medical evidence insufficient to establish that these occupational factors aggravated his bilateral eye condition.

Following an in-depth physical examination, Dr. Beck determined in an October 23, 2009 report that appellant had, *inter alia*, advanced bilateral glaucoma, which was particularly symptomatic in the left eye. He concluded that long periods of reading and computer work in the course of employment may continue to aggravate the injury. Dr. Beck later restated in a December 8, 2009 report that these activities aggravated appellant's preexisting glaucoma. Neither report, however, offered sufficient medical rationale explaining how using a computer or

⁴ *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁶ *See S.P.*, 59 ECAB 184, 188 (2007).

⁷ *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *R.R.*, Docket No. 08-2010 (issued April 3, 2009).

⁸ *I.J.*, 59 ECAB 408 (2008); *Woodhams*, *supra* note 5.

reviewing files pathophysiologically aggravated the bilateral eye condition.⁹ Moreover, Dr. Beck's opinion in the October 23, 2009 report was speculative.¹⁰ In the absence of well-reasoned medical opinion in which a physician explains the reasons why specific employment duties caused or aggravated the diagnosed glaucoma, appellant failed to meet his burden.

Counsel asserts on appeal that OWCP failed to consider Dr. Beck's December 8, 2009 report. The record shows that this report was explicitly addressed in the December 3, 2010 decision. Alternatively, counsel argues that OWCP did not satisfy its obligation to assist in the development of the medical evidence. If a claimant submits factual or medical evidence that is not sufficient to meet his or her burden of proof, OWCP will inform the claimant of the additional evidence needed and allow at least 30 days for receipt of this evidence. OWCP is not required to notify the claimant a second time if the evidence submitted in response to its first request is not sufficient to meet the burden of proof.¹¹ At the beginning of the present case, it advised appellant in a September 30, 2009 letter that his original claim lacked a sufficiently-rationalized medical report on the issue of causation and gave him 30 days to respond accordingly. Hence, OWCP met its responsibility to advise appellant of the type of medical evidence needed to establish his claim.¹²

Appellant may submit new evidence or argument as part of a formal written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant did not establish that he sustained an occupational disease in the performance of duty.

⁹ *Joan R. Donovan*, 54 ECAB 615, 621 (2003); *Ern Reynolds*, 45 ECAB 690, 696 (1994). The Board notes that the initial August 1, 2008 medical note cannot constitute probative medical evidence because it was not signed by a physician. *See R.M.*, 59 ECAB 690 (2008).

¹⁰ *Kathy A. Kelley*, 55 ECAB 206 (2004); *Thomas A. Faber*, 50 ECAB 566 (1999) (the use of speculative terms diminishes the probative value of medical opinion evidence).

¹¹ *See* 20 C.F.R. § 10.121.

¹² *Norman M. Perras*, 49 ECAB 191 (1997); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Development of Claims*, Chapter 2.800.3(a) (March 2011).

ORDER

IT IS HEREBY ORDERED THAT the December 3, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 19, 2011
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

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