United States Department of Labor
Employees' Compensation Appeals Board

B.P., Appellant	)	
	)	**Docket No. 11-226**
and	)	**Issued: September 19, 2011**
	)	
U.S. POSTAL SERVICE, POST OFFICE, Hanson, KY, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
RICHARD J. DASCHBACH, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On November 4, 2010 appellant filed a timely appeal from a September 21, 2010 merit decision of the Office of Workers' Compensation Programs (OWCP) denying his claim for disability wage-loss compensation and an October 1, 2010 merit decision finding that he had not established an employment-related cardiac condition. Pursuant to the Federal Employees' Compensation Act (FECA)[1] and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUES

The issues are: (1) whether appellant has established that he sustained a cardiac condition causally related to his June 23, 2010 employment injury; and (2) whether he was disabled from August 23 to September 10, 2010 due to his accepted work injury.

[1] 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On July 1, 2010 appellant, then a 48-year-old rural letter carrier, filed a claim alleging that on June 23, 2010 he fainted due to heat exhaustion and struck his head on a door frame. He stopped work on June 23, 2010. OWCP accepted his claim for a single episode of heat syncope.

Appellant received treatment at a hospital on June 23, 2010. He provided a history of fainting after leaning over to put mail in a box. Appellant related that when he woke up his vehicle had traveled about 150 feet and into a ditch. A nurse practitioner diagnosed syncope and probably heat exhaustion.

In a June 27, 2010 form report, Dr. Christopher Bunch, a Board-certified surgeon, diagnosed syncope secondary to dehydration and checked "no" that the condition was not caused or aggravated by employment. He instructed appellant to follow up with a cardiologist and found that he could resume his usual employment on July 1, 2010.

In a June 30, 2010 return to work certificate, Dr. Andrea DeNeen, a Board-certified internist, diagnosed syncope and found that appellant was disabled from June 23 to July 7, 2010, but could return to work on July 6, 2010. In a narrative report of the same date, Dr. DeNeen discussed his history of syncope a week earlier while delivering mail in his vehicle. She noted that tests taken at the emergency room revealed no abnormalities. Dr. DeNeen diagnosed uncontrolled hypertension, morbid obesity and an episode of syncope. She recommended a cardiac catheterization to evaluate whether appellant had coronary artery disease.

On July 2, 2010 appellant underwent a left heart catheterization and coronary angiography. The results were normal.

On August 12, 2010 OWCP advised appellant of its acceptance of his claim for a single incident of heat syncope. It requested that he submit a rationalized report from his attending physician explaining how his heart catheterization and angiography were related to the accepted work incident and addressing whether he was off work due to the syncope incident or another condition.

In a report dated July 8, 2010, Dr. DeNeen diagnosed an episode of syncope "with no evidence of eipcardial coronary artery disease, normal systolic function and an episode of nonsustained ventricular tachycardia." An echocardiogram performed on July 9, 2010 showed no obvious abnormalities.

In a form report dated August 19, 2010, Dr. Nathan Reed, a Board-certified surgeon, listed the history of injury as syncope on June 23, 2010 and a catheterization on July 12, 2010. He diagnosed syncope and ventricular tachycardia. Dr. Reed checked "yes" that the condition was caused or aggravate by an employment activity and explained that the heat and humidity did not cause the ventricular tachycardia but could provoke an attack. He advised that appellant was totally disabled from June 23 to August 24, 2010 and could work with restrictions beginning August 24, 2010. In an accompanying narrative report of the same date, Dr. Reed related that "the excessive heat and humidity of the conditions of this summer and specifically on the date of his prolonged syncope and motor vehicle accident can definitely contribute to the ability for him

to have the rhythm that he is otherwise predisposed to. They are not the underlying cause of the ability to have this abnormal rhythm but they can certainly place undue stress on this system…."

Appellant filed a claim for compensation beginning August 23, 2010. By decision dated September 21, 2010, OWCP denied his claim for compensation from August 23 to September 10, 2010. It determined that the medical evidence indicated that he was not working due to a nonemployment-related cardiac condition.

In a report dated July 12, 2010, received by OWCP on September 24, 2010, Dr. Reed discussed appellant's history of syncope driving his work truck on June 23, 2010. He diagnosed "[n]onsustained ventricular tachycardia, frequent ventricular ectopy and profound syncope in a man with an otherwise structurally normal heart."

In a report dated August 25, 2010, Dr. DeNeen diagnosed ventricular tachycardia status post implantable cardioverter defibrillator, hypertension, tachycardia and hypertriglyceridimia. She noted that appellant could no longer drive commercially and would be unable to continue with his employment.

On September 24, 2010 Dr. DeNeen advised that appellant was hospitalized after he experienced syncope delivering mail. She stated:

> "Dr. Heed conducted an electrophysiologic study which did show evidence of inducible ventricular tachardia. Multiple attempts at ablation were made [but] were unsuccessful. [Appellant] therefore then required an automatic implanted cardioverter defibrillator.
>
> "While his job situation and weather conditions the day of his presentation did not cause him to develop the underlying anatomy responsible for his arrhythmia, it probably unmasked and exacerbated his as of yet undiagnosed underlying condition."

By decision dated October 1, 2010, OWCP denied appellant's claim for a cardiac condition after finding that the medical evidence did not establish that he sustained an employment-related heart condition.

LEGAL PRECEDENT -- ISSUE 1

An employee seeking benefits under FECA[2] 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 States" within the meaning of FECA; that the claim was filed within the applicable time limitation of FECA; that an injury was sustained while in the performance of duty as alleged; and that any disability and/or specific condition, for which compensation is claimed are causally related to the employment injury. These are the essential elements of each and every

[2] 5 U.S.C. §§ 8101-8193.

compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.[3]

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.[4] Rationalized medical opinion evidence is medical evidence, which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors.[5] The opinion of the physician must be based on a complete factual and medical background of the claimant,[6] must be one of reasonable medical certainty[7] explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.[8]

ANALYSIS -- ISSUE 1

On July 1, 2010 appellant filed a traumatic injury claim alleging that on June 23, 2010 he fainted and struck his head on a door frame. OWCP accepted his claim for a single incident of heat syncope. It noted that appellant was receiving treatment for a cardiac condition, which it had not accepted as employment related.

The Board finds that the medical evidence is insufficient to establish that appellant sustained a cardiac condition caused or aggravated by the June 23, 2010 work injury or that he was disabled beginning August 23, 2010 due to his employment injury. Where a claimant claims that, a condition not accepted or approved by OWCP was due to his employment injury, he bears the burden of proof to establish that the condition is causally related to the employment injury through the submission of rationalized medical evidence.[9] In a June 27, 2010 form report, Dr. Bunch diagnosed syncope due to dehydration and indicated that the condition was not related to employment.

On July 12, 2010 Dr. Reed discussed appellant's history of syncope at work on June 23, 2010 and diagnosed ventricular tachycardia. He did not, however, address the cause of the ventricular tachycardia. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship.[10]

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[3] *Caroline Thomas*, 51 ECAB 451 (2000); *Calvin E. King*, 51 ECAB 394 (2000).

[4] *John W. Montoya*, 54 ECAB 306 (2003).

[5] *Conrad Hightower*, 54 ECAB 796 (2003); *Leslie C. Moore*, 52 ECAB 132 (2000).

[6] *Tomas Martinez*, 54 ECAB 623 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

[7] *Montoya*, *supra* note 4.

[8] *Judy C. Rogers*, 54 ECAB 693 (2003).

[9] *JaJa K. Asaramo*, 55 ECAB 200, 204 (2004).

[10] *Hightower*, *supra* note 5; *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

In an August 19, 2010 form report, Dr. Reed provided a history of injury as syncope on June 23, 2010 and a cardiac catheterization on July 12, 2010. He diagnosed ventricular tachycardia and syncope. Dr. Reed checked "yes" that the condition was caused or aggravated by employment. He asserted that heat and humidity did not cause the ventricular tachycardia but could precipitate an attack. Dr. Reed explained in an accompanying narrative report that the heat and humidity could contribute to an attack in a predisposed individual. OWCP, however, has accepted appellant's claim for a single episode of syncope. The issue is whether his cardiac condition resulted from the June 23, 2010 work injury. Dr. Reed opined that heat and humidity on June 23, 2010 caused a single episode of ventricular tachycardia did not find that the underlying condition of ventricular tachycardia was caused or exacerbated by the accepted work incident. Consequently, his opinion is insufficient to meet appellant's burden of proof.

On June 30, 2010 Dr. DeNeen reviewed the history of injury and diagnosed hypertension, obesity and syncope. She opined that appellant was disabled from June 23 to July 7, 2010 but could resume work on July 6, 2010. Dr. DeNeen referred him for a cardiac catheterization, which yielded normal results. On July 8, 2010 she diagnosed syncope with no evidence of coronary artery disease but an episode of ventricular tachycardia. Dr. DeNeen noted in an August 25, 2010 report that appellant had undergone the implantation of a cardioverter defibrillator. She advised that he could not drive commercially and thus could not continue in his employment. Dr. DeNeen, in these reports, did not address the cause of appellant's cardiac condition; thus, her opinion is of little probative value.[11]

In a report dated September 24, 2010, Dr. DeNeen found that appellant's work and the weather on the date of injury did not cause his arrhythmia but "probably unmasked and exacerbated his as of yet undiagnosed underlying condition." She did not, however, provide any rationale for her conclusion that the June 23, 2010 work injury exacerbated appellant's underlying ventricular tachycardia. The Board has held that the mere fact that a disease or condition manifests itself during a period of employment does not raise an inference of causal relationship between the condition and the employment.[12] A physician must provide an opinion on whether the employment incident described caused or contributed to the claimant's diagnosed medical condition and support that opinion with medical reasoning to demonstrate that the conclusion reached is sound, logical and rationale.[13] Dr. DeNeen failed to provide any rationale for her conclusion and thus her opinion is insufficient to meet appellant's burden of proof.

An award of compensation may not be based on surmise, conjecture, speculation or upon appellant's own belief that there is a causal relationship between his claimed condition and his employment.[14] Appellant must submit a physician's report in which the physician reviews those factors of employment identified by him as causing his condition and, taking these factors into consideration as well as findings upon examination and the medical history, explain how employment factors caused or aggravated any diagnosed condition and present medical rationale

[11] *See K.W.*, 59 ECAB 271 (2007).

[12] *D.E.*, 58 ECAB 448 (2007); *Roy L. Humphrey*, 57 ECAB 238 (2005).

[13] *Montoya*, *supra* note 4.

[14] *D.E.*, *supra* note 12; *George H. Clark*, 56 ECAB 162 (2004); *Patricia J. Glenn*, 53 ECAB 159 (2001).

in support of his or her opinion.[15] He failed to submit such evidence and therefore failed to discharge his burden of proof.

LEGAL PRECEDENT -- ISSUE 2

The term disability as used in FECA[16] means the incapacity because of an employment injury to earn the wages that the employee was receiving at the time of injury.[17] Whether a particular injury caused an employee disability for employment is a medical issue which must be resolved by competent medical evidence.[18] When the medical evidence establishes that the residuals of an employment injury are such that, from a medical standpoint, they prevent the employee from continuing in the employment held when injured, the employee is entitled to compensation for any loss of wage-earning capacity resulting from such incapacity.[19] The Board will not require OWCP to pay compensation for disability in the absence of any medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow employee's to self-certify their disability and entitlement to compensation.[20]

ANALYSIS -- ISSUE 2

As discussed, OWCP accepted appellant's claim for a single episode of heat-related syncope and he has not met his burden to show that his claim should be expanded to include an employment-related cardiac condition. Consequently, appellant must submit medical evidence establishing that he was disabled from work from August 23 to September 10, 2010 due to his heat syncope.

The Board finds that the medical evidence is insufficient to show that appellant was disabled from August 23 to September 10, 2010 due to his accepted employment injury. In a June 27, 2010 form report, Dr. Bunch found that appellant was able to resume his regular employment on July 1, 2010. On June 30, 2010 Dr. DeNeen advised that appellant could return to work on July 6, 2010.

In a form report dated August 19, 2010, Dr. Reed diagnosed a history of syncope on June 23, 2010 and heart catheterization on July 12, 2010. He checked "yes" that the condition was employment related, explaining that heat could cause an episode of ventricular tachycardia. Dr. Reed found that appellant was totally disabled from June 23 to August 24, 2010 but could return to work with restrictions on August 24, 2010. He did not, however, address whether the work restrictions resulted from the accepted single episode of heat syncope on June 23, 2010 or

[15] *D.D.*, 57 ECAB 734 (2006); *Robert Broome*, 55 ECAB 339 (2004).

[16] 5 U.S.C. §§ 8101-8193; 20 C.F.R. § 10.5(f).

[17] *Paul E. Thams*, 56 ECAB 503 (2005).

[18] *Id*.

[19] *Id*.

[20] *William A. Archer*, 55 ECAB 674 (2004); *Fereidoon Kharabi*, 52 ECAB 291 (2001).

the nonwork-related cardiac catheterization on July 12, 2010. The issue of whether a claimant's disability is related to an accepted condition is a medical question which must be established by a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disability is causally related to employment factors and supports that conclusion with sound medical reasoning.[21]

On August 25, 2010 Dr. DeNeen diagnosed ventricular tachycardia postimplantable cardioverter defibrillator, hypertension, tachycardia and hypertriglyceridimia. She found that appellant could not continue with his employment as he was no longer able to drive commercially. Dr. DeNeen did not attribute his inability to work to his June 23, 2010 employment injury and thus her opinion is of little probative value.

The remaining evidence of record does not specifically address disability from employment. The Board will not require OWCP to pay compensation for disability in the absence of any medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow employees to self-certify their disability and entitlement to compensation.[22]

Appellant may submit new evidence or argument with a written request 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 has not established that he sustained a cardiac condition causally related to his June 23, 2010 employment injury or that he was disabled from August 23 to September 10, 2010 due to his accepted work injury.

[21] *Sandra D. Pruitt*, 57 ECAB 126 (2005).

[22] *Fereidoon Kharabi*, 52 ECAB 291 (2001).

ORDER

IT IS HEREBY ORDERED THAT the October 1 and September 21, 2010 merit decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: September 19, 2011
Washington, DC

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

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

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