United States Department of Labor
Employees' Compensation Appeals Board

J.L., Appellant	)	
	)	
and	)	**Docket No. 11-377**
	)	**Issued: September 13, 2011**
DEPARTMENT OF HOMELAND SECURITY, TRANSPORTATION SECURITY ADMINISTRATION, O'HARE INTERNATIONAL AIRPORT, Chicago, IL, 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 December 9, 2010 appellant filed a timely appeal from a November 2, 2010 merit decision of the Office of Workers' Compensation Programs (OWCP) which denied his traumatic injury claim. 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.

ISSUE

The issue is whether appellant met his burden of proof to establish that he sustained a cerebellar stroke in the performance of duty.

[1] 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On August 11, 2010, appellant, then a 60-year-old maintenance technician, filed a traumatic injury claim alleging that on June 7, 2010 he sustained a cerebellar stroke in the performance of duty. As a result of the stroke, he was unable to walk without support and experienced chronic dizziness, difficulty in balance and coordination, vertigo, nausea and vomiting. Appellant stopped work on June 7, 2010.

On August 20, 2010 OWCP advised appellant that the evidence was insufficient to support his claim. It requested that he provide a detailed, narrative medical report from his physician, which included a history of the injury, examination and treatments received, results of any examination and tests, medical diagnosis and his physician's opinion, supported by medical rationale, explaining how the June 7, 2010 employment incident caused or aggravated the alleged injury. OWCP also requested additional factual evidence describing where appellant was and what he was doing at the time the alleged injury occurred, any similar disabilities or symptoms he experienced before the injury, and the factors of his employment that caused his alleged condition.

In a July 15, 2010 statement, appellant explained that he had a cerebellar stroke on Monday, June 7, 2010. At approximately 3:00 a.m., he suddenly experienced headaches and dizziness and vomited in the bathroom.[2] Appellant was able to complete his work shift, but on his way home he stopped multiple times to wait for his dizziness and headaches to resolve. Around 11:00 a.m., he began to suffer from dizziness, headaches and vomiting again. At 7:00 p.m. that night, his wife drove him to work, but on the way to work his symptoms returned. Upon arrival at the employing establishment, he informed Wallace Hodges that he would not be working that night because he felt ill. The next day, appellant went to the emergency room and was diagnosed with vertigo. He was discharged on Wednesday and did not work Thursday or Friday. On Saturday, the symptoms worsened and appellant returned to the emergency room where he was again diagnosed with vertigo. On Sunday, he underwent a magnetic resonance imaging (MRI) scan of the brain, which confirmed that he suffered a left-sided cerebellar stroke of the vertebral artery with dissection of the artery. Appellant was evaluated by Dr. Reuben R. Weisz, a Board-certified neurologist, and his primary physician, Dr. Norbeto J. Martinez, a Board-certified internist.

Appellant stated that for the prior three months, he experienced an increased amount of pressure and stress at work due to demand for coverage at the terminal exits and an increased workload. Because of his dedication as a maintenance technician appellant provided coverage of various machines such as itemizers, bahringers, sabres, bottle liquid scanners (BAS), and walk-thrus. Appellant believed that this increased tension in his life caused chronic headaches, increased his blood pressure, stress and ultimately caused his stroke.

In a June 21, 2010 discharge report, Dr. Martinez stated that appellant was admitted to the hospital, underwent a computerized tomography (CT) scan, carotid Doppler, and cardiology evaluation and was diagnosed with vertigo. Appellant continued to experience vertigo attacks

[2] Appellant's tour of duty was listed as 8:30 p.m. to 5:00 a.m.

after being discharged and was admitted into another emergency room. An MRI scan of his brain confirmed that he sustained a cerebellar ischemic infarction. Dr. Martinez diagnosed acute ischemic infarction, vertigo secondary, status post coronary artery bypass graft and insulin-dependent diabetes mellitus.

In a July 20, 2010 attending physician's report, Dr. Martinez, stated that on June 7, 2010 appellant experienced increased vertigo with vomiting. An MRI scan confirmed that he suffered an infarction of the cerebellum with vertigo. Dr. Martinez noted it was undetermined whether appellant's medical condition was caused or aggravated by an employment activity. He listed the dates of treatment and authorized appellant to return to work with restrictions.

Appellant also submitted medical reports by Dr. Weisz. In a June 14, 2010 electroencephalograph (EEG) report, he noted that appellant suffered a left cerebellar infarct and ataxia and appeared confused and disoriented. Appellant's rapid rhythms were symmetrical and his EEG asleep was normal. Dr. Weisz also submitted a June 14, 2010 consultation report.

In a July 29, 2010 letter, Dr. Weisz stated that appellant had improved significantly and no longer experienced ataxia. His coordination and gait had improved such that he was able to walk 10 laps in the park without falling. Appellant denied any headaches, chest pain, shortness of breath and palpitations. Dr. Weisz observed that his sphincter function was preserved, his bowel movements were intact, his appetite was good and his weight was stable. On examination, appellant did not exhibit any bruits over the head or neck with no meningeal signs. His cardiopulmonary examination was essentially noncontributory. Dr. Weisz did not observe any edema of the lower extremities, peripheral pulses or skin stigmata. His neurological examination revealed an intact mental status, cranial nerves, motor examination, reflexes, sensory examination, coordination and gait.

In a July 29, 2010 duty status report, Dr. Weisz noted that appellant sustained a stroke on June 7, 2010 and indicated that he was unable to return to work. In a September 8, 2010 duty status report, he noted that appellant sustained a stroke on June 7, 2010 and advised appellant to return to work on September 8, 2010 with restrictions.

In an undated attending physician's report, Dr. Weisz noted appellant suffered from vertigo, nausea, and vomiting and diagnosed cerebrovascular accident (CVA) stroke. He listed the dates of his treatment and authorized appellant to resume light work on September 8, 2010. Dr. Weisz also checked a box marked "No" in response to a question about whether appellant's condition was caused or aggravated by his employment.

In a September 2, 2010 physical therapy report, appellant stated that he no longer experienced dizziness during his daily activities, gait, or while riding in the car. The physical therapist reported that appellant demonstrated significant improvement of his vertigo, balance, and gait deficits.

In a September 1, 2010 letter, the employing establishment requested that appellant's traumatic injury claim be adjudicated as an occupational disease claim based on the information provided. In a September 1, 2010 e-mail, Douglas Ruhde, a maintenance manager, stated that appellant never informed him prior to June 7, 2010 that his work was causing him stress or

affecting his health. He also did not learn that appellant was hospitalized until June 17, 2010 and that he claimed his condition was work related until approximately July 12, 2010.

In a decision dated November 2, 2010, OWCP denied appellant's claim finding insufficient medical evidence to establish that his stroke was causally related to the June 7, 2010 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his claim by the weight of the reliable, probative, and substantial evidence[3] including that he sustained an injury in the performance of duty and that any specific condition or disability for work for which he claims compensation is causally related to that employment injury.[4] In an occupational disease claim, appellant's burden requires submission of the following: (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.[5]

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.[6] Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the specified employment factors or incident.[7] 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] The mere fact that work activities may produce symptoms revelatory of an underlying condition does not raise an inference of an employment relation. Such a relationship must be shown by rationalized medical evidence of a causal relation based upon a specific and

[3] *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan,* 20 ECAB 55, 58 (1968).

[4] *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton,* 40 ECAB 1143, 1145 (1989); *M.M.*, Docket No. 08-1510 (issued November 25, 2010).

[5] *R.H.*, 59 ECAB 382 (2008); *Ernest St. Pierre,* 51 ECAB 623 (2000); *D.U.*, Docket No. 10-144, issued July 27, 2010).

[6] *D.I.*, 59 ECAB 158 (2007); *I.R.*, Docket No. 09-1229 (issued February 24, 2010); *W.D.*, Docket No. 09-658 (issued October 22, 2009).

[7] *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

[8] *B.B.*, 59 ECAB 234 (2007); *D.S.*, Docket No. 09-860 (issued November 2, 2009).

accurate history of employment conditions which are alleged to have caused or exacerbated a disabling condition.[9]

ANALYSIS

On June 12, 2006 appellant filed a traumatic injury claim alleging that on June 7, 2010 he sustained a stroke in the performance of duty. He indicated that his condition was a traumatic injury by filing a Form CA-1, but he described employment factors that occurred over a three-month time span in a subsequent narrative statement. The Board will treat this claim as an occupational disease claim because appellant attributed his condition over a period longer than a single workday or shift.[10]

The Board finds that the medical evidence of record is insufficient to establish that appellant's acute infarction or vertigo were causally related to his employment activities as a maintenance technician.

Appellant explained that for three months prior to his stroke his employment duties as a maintenance technician caused additional stress due to an increased workload and demands for additional coverage of terminal exits. He submitted various medical reports from Dr. Martinez and Dr. Weisz in support of his claim. In a July 21, 2010 discharge report, Dr. Martinez stated that it was "undetermined" whether appellant's medical condition was caused or aggravated by his employment. In an undated attending physician's report, Dr. Weisz checked "No" that appellant's stroke was not caused or aggravated by an employment activity. The medical reports of record do not support that appellant's cerebellar condition was causally related to the factors of his federal employment. Causal relationship is a medical issue and must be resolved by probative medical evidence.[11] The medical evidence does not support the issue of causal relationship. Neither the reports of Dr. Martinez nor of Dr. Weisz provided any opinion attributing the cause of appellant's condition to his federal employment; rather, the physicians noted that appellant's condition was not a result of his employment. The evidence is insufficient to establish appellant's claim.[12]

Although appellant contends that the increased pressure and stress at work caused his stroke, the Board has held that a claimant's belief that his condition was caused by his employment is insufficient to establish causal relationship.[13] As noted, it is appellant's burden to

[9] *Patricia J. Bolleter,* 40 ECAB 373 (1988).

[10] OWCP regulations define a traumatic injury 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 the time and place of occurrence and member or function of the body affected. 20 C.F.R. § 10.5(ee). An occupational disease or illness is defined as a condition produced by the work environment over a period longer than a single workday or shift. *Id.* at § 10.5(q).

[11] *D.I.*, 59 ECAB 158 (2007); *Margaret Carvello,* 54 ECAB 498 (2003).

[12] *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

[13] *See Roy L. Humphrey,* 57 ECAB 238, 241 (2005); *Sharon Yonak,* 49 ECAB 250 (1997).

establish his claim by the weight of the reliable, probative and substantial evidence.[14] OWCP advised appellant in its August 20, 2010 letter that a comprehensive medical report explaining how his stroke was caused or aggravated by his employment was needed to support his claim. He failed to provide such probative medical evidence. Thus, appellant did not meet his burden of proof to establish that he sustained a cerebellar stroke in the performance of duty.

Appellant may submit new evidence or argument with a 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 a cerebellar stroke in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the November 2, 2010 decision of the Office of Workers' Compensation Programs is affirmed, as modified.

Issued: September 13, 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

[14] *Joseph M. Whelan, supra* note 3.