

**United States Department of Labor
Employees' Compensation Appeals Board**

D.S., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Phoenix, AZ, Employer**

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**Docket No. 11-1635
Issued: April 12, 2012**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

RICHARD J. DASCHBACH, Chief Judge
ALEC J. KOROMILAS, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On July 6, 2011 appellant filed a timely appeal from a May 9, 2011 merit decision of the Office of Workers' Compensation Programs (OWCP) denying his occupational disease claim. Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the claim.

ISSUE

The issue is whether appellant established that he sustained aggravation of his depression, heart or prostate conditions causally related to factors of his federal employment.

FACTUAL HISTORY

On March 17, 2010 appellant, then a 60-year-old distribution supervisor, filed an occupational disease claim alleging that he sustained an aggravation of emotional and physical conditions due to his work. He experienced occupational stress, which caused an aggravation of

¹ 5 U.S.C. § 8101 *et seq.*

his preexisting physical conditions, including a heart condition and a prostate cancer-related condition. Appellant alleged that his physical and emotional conditions were aggravated when he was assigned additional supervisory duties starting January 2010 to provide relief to other supervisors.

Appellant submitted Veterans' Administration documents which verified a service-related disability for major depressive disorder, secondary to service-related prostate cancer and urinary incontinence.

In a February 16, 2010 report, Dr. Bhavesh K. Gupta, an internist, noted appellant's history of urinary incontinence. He stated that appellant had been "more tired and fatigued from work stress." Dr. Gupta diagnosed appellant with tubular adenoma, depression, low back pain and hyperlipidemia. He concluded that appellant's depression was made "a little worse due to urology and work stressors."

Dr. Douglas E. Parkin, an internist, reported on March 22, 2010 that appellant needed "to be moved back to his previous job status" because "the new job duties have exacerbated and aggravated his medical problems." He related that the change in appellant's job position had "precipitated chest pain." Dr. Parkin also stated that appellant was able to function, and "now his new job duties have exacerbated his medical problems, particularly urinary incontinence." He stated that the change in work duties caused appellant's depression to worsen.

In a progress note dated March 25, 2010, Dr. Biren Patel, a Board-certified urologist, diagnosed appellant with prostate cancer and incontinence. He stated that "the new job duties have exacerbated and aggravated [appellant's] medical conditions." In a note dated April 22, 2010, Dr. Patel found that appellant was unable to work due to postoperative complications from prostate surgery.

On April 14, 2010 Dr. Ashok Solsi, a Board-certified specialist in cardiovascular disease, stated that appellant "experiences chest pains, discomfort and over all fatigue which can contribute to increased blood pressure and aggravate the status of his coronary artery disease." He noted that appellant "may not perform his postal duties due to the risk of aggravating his current condition due to job stress."

Dr. Parkin related on April 26, 2010 that appellant's "job[-]related stress" exacerbated his "medical problems of depression and urinary incontinence."

On May 11 and July 27, 2010 OWCP received medical reports pertaining to appellant's diagnoses from 2006 to 2008. In a December 13, 2006 report, Dr. Ziad M. Elghoul, a Board-certified specialist in cardiovascular disease, diagnosed appellant with coronary artery disease. On March 28, 2007 Dr. Patel diagnosed prostate cancer. In a report dated August 13, 2008, he diagnosed stress urinary incontinence.

By letter dated June 17, 2010, the employing establishment controverted appellant's claim that he was overworked. It stated that he was rarely required to work the operation by himself, that he had an eight-hour workday and, during the two tours when other supervisors took leave, there were still two supervisors on his row.

Dr. Gupta reported on September 23, 2010 that appellant's urinary incontinence condition was due to complications of his prostatectomy, and he had to wear pads and change five to six times daily, more when he was working or stressed out.

In a January 20, 2011 decision, OWCP denied appellant's claim finding that appellant failed to submit sufficient evidence to establish that any incident had occurred in the performance of duty.

Appellant thereafter submitted a September 3, 2010 report from Dr. Parkin who stated that after appellant returned to work following major surgery. Dr. Parkin was moved to a position which required that he walk or stand for seven hours a day. He stated that appellant was not physically able to walk or stand for more than 30 minutes at a time. Appellant also submitted a November 10, 2010 report, in which Dr. R. Duane Hopson, a Board-certified psychiatrist, diagnosed depression and prostate cancer. As part of his discussion of appellant's history of illness, Dr. Hopson stated that appellant had complaints of depression since 2007 after being diagnosed with prostate cancer and undergoing a prostatectomy. He further stated that appellant was working for the U.S. Postal Service and that he was under stress and scrutiny because of his physical problems.

Appellant filed for a request for reconsideration on February 8, 2011.

In a May 9, 2011 decision, OWCP modified its January 20, 2011 decision and concluded that appellant had established a work factor within the performance of duty. It accepted that he was given additional responsibilities as a result of the realignment of supervisor's duties, due to a reduction of mail volume. OWCP denied appellant's claim, finding that the medical evidence failed to establish a causal relationship between the accepted work factor and an aggravation of his preexisting conditions.

LEGAL PRECEDENT

To establish that an injury was sustained in the performance of duty in a claim for occupational disease, 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.²

Under FECA, when employment factors cause an aggravation of an underlying physical condition, the employee is entitled to compensation for the periods of disability related to the aggravation.³ When the aggravation is temporary and leaves no permanent residuals, compensation is not payable for periods after the aggravation ceased.⁴

² See *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

³ *Raymond W. Behrens*, 50 ECAB 221, 222 (1999); *James L. Hearn*, 29 ECAB 278, 287 (1978).

⁴ *Id.*

An employee seeking benefits under FECA⁵ has the burden of proof to establish the essential elements of his claim by the weight of the evidence,⁶ 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.⁷ As part of his burden, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background showing causal relationship.⁸ The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of the analysis manifested and the medical rationale expressed in support of the physician's opinion.⁹

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. 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 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.¹⁰

ANALYSIS

In the decision dated May 9, 2011, OWCP accepted appellant's alleged factor, that he was given additional work duties due to an employing establishment realignment of supervisory responsibility. It denied his claim on the grounds that the medical evidence submitted was insufficient to establish causal relationship between the accepted work factor and aggravation of his preexisting conditions.

The Board finds that appellant has not met his burden of proof to establish causal relationship.

Appellant argues on appeal that he has submitted multiple doctors' reports which state that his work aggravated his preexisting conditions. The Board has held however, that, in assessing the medical evidence, the number of physicians supporting one position or another is not controlling.¹¹ As previously noted, to meet his burden of proof appellant must submit medical evidence wherein the opinion of the physician is based on a complete factual and medical background of the employee, is of reasonable medical certainty, and is supported by

⁵ 5 U.S.C. §§ 8101-8193.

⁶ *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

⁷ *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁸ *G.T., id.*; *Nancy G. O'Meara*, 12 ECAB 67, 71 (1960).

⁹ *Jennifer Atkerson*, 55 ECAB 317, 319 (2004); *Naomi A. Lilly*, 10 ECAB 560, 573 (1959).

¹⁰ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

¹¹ *Robert A. Redmond*, 40 ECAB 796, 803 (1989); *Naomi A. Lilly*, 10 ECAB 560, 573 (1959).

medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the employee.

The Board notes that several physicians generally concluded that appellant's occupational stress aggravated his medical conditions. However, none of the reports provided a complete factual or medical background or provided a rationalized medical opinion explaining how the accepted factor of additional employment duties would aggravate his preexisting conditions of depression, heart disease, prostate cancer or urinary incontinence. The Board has consistently held that medical reports lacking a rationale on causal relationship are of diminished probative value.¹²

In his March 22, 2010 report, Dr. Parkin stated that new job duties exacerbated and aggravated appellant's medical problems, particularly urinary incontinence and depression. However, he did not describe appellant's new job duties and he did not provide medical rationale in support of this conclusion. It is important to note that appellant has stated, and the record substantiates, that appellant's medical conditions are all preexisting. Medical opinion submitted in support of causal relationship must therefore explain how the work duties physiologically aggravated the diagnosed conditions. The Board has consistently held that medical reports lacking rationale regarding causal relationship have little probative value.¹³

Similarly, Dr. Patel's March 25, 2010 report diagnosed prostate cancer and urinary incontinence and also affirmatively stated that exacerbation of appellant's preexisting conditions were the result of his new job duties. Dr. Patel however stated this conclusion without discussing what those new job duties entailed or in what way they have affected appellant's condition. As such, the probative value of this report is also diminished.

Dr. Solsi's report noted that appellant experienced chest pains and general fatigue, which "can" contribute to increased blood pressure and aggravate the status of coronary artery disease. He failed to discuss appellant's work history or explain how his specific job duties caused this aggravation. The Board also notes that Dr. Solsi's opinion is generalized in nature and speculative at best.

Dr. Gupta's September 23, 2010 medical report stated that appellant's incontinence increased when he was working and stressed out and that work stress worsened his depression. The Board has held that the mere fact that a condition manifests itself or is worsened during a period of employment does not raise an inference of causal relationship between the two; such a relationship must be shown by rationalized medical evidence of causal relation based upon a specific and accurate history of employment conditions which are alleged to have caused or exacerbated a disabling condition.¹⁴ Dr. Gupta did not provide a history of appellant's accepted employment factor, and he did not discuss how this factor affected appellant's existing illness. As such, this report is insufficient to establish the requisite causal relationship.

¹² See *Mary E. Marshall*, 56 ECAB 420 (2005) (medical reports that do not contain rationale on causal relationship have little probative value).

¹³ *Id.*

¹⁴ *Alma J. Noakes*, Docket No. 05-389 (issued April 20, 2005); *Thomas S. Miceli*, 40 ECAB 1322 (1989).

Dr. Hopson's November 10, 2010 report did not relate a history of the accepted employment factor. Instead, he stated that appellant was under stress and scrutiny because of his physical problems. As such Dr. Hopson's report is of little probative value to establish that appellant's additional work duties aggravated his preexisting medical conditions.

As appellant did not submit probative medical evidence based on a complete factual and medical background, supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors, the Board finds that he failed to meet his burden of establishing a causal relationship between his accepted work factor and the aggravation of his preexisting conditions.

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. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant failed to establish that his medical conditions were aggravated by his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated May 9, 2011 is affirmed.

Issued: April 12, 2012
Washington, DC

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

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

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