

FACTUAL HISTORY

This case was previously before the Board.² Appellant, a 76-year-old former veterinary medical officer, has an accepted claim for bilateral/binaural noise-induced hearing loss.³ OWCP granted schedule awards totaling 60 percent binaural hearing loss. Appellant voluntarily retired effective May 27, 2006. He was 70 years old at the time. Appellant filed a claim for wage-loss compensation alleging that he retired because he could no longer perform his regular duties around noisy machinery. OWCP denied his claim for wage-loss compensation beginning May 27, 2006. In prior appeals, the Board addressed the extent of appellant's permanent hearing loss (Docket Nos. 04-1732 & 05-632) and his entitlement to wage-loss compensation beginning May 27, 2006. When the case was last on appeal, the Board affirmed OWCP's September 15, 2010 decision denying reconsideration of its earlier denial of wage-loss compensation (Docket No. 11-135). The Board's prior decisions are incorporated herein by reference.

Appellant filed a claim for a consequential injury on November 8, 2010 alleging an emotional condition that allegedly arose on or about April 12, 2006. He described his condition as stress, frustration and insecurity. Appellant claimed that he had been on sick leave from April 12 through his retirement on May 27, 2006 due to his emotional condition. He alleged that he had a high stress level due to his inability to hear.

In support of his claimed consequential injury, appellant submitted two March 8, 2008 prescription pad notes from Dr. Vernal M. Hansen, a family practitioner, who indicated that on April 13, 2006 appellant was excused from work for the period April 12 to 30, 2006 because of "illness [and] stress." The second note stated that on April 27, 2006 appellant received a note excusing him from work for the period May 1 to 27, 2006 "because of illness." Appellant also submitted a June 23, 2009 report from Dr. Natee Poopat, a Board-certified otolaryngologist. The report concerned appellant's noised-induced hearing loss but did not reference any psychiatric disorder or associated symptoms. Appellant claimed that when he learned in June 2009 that he had lost most of his hearing, it aggravated his emotional condition.

On June 16, 2011 OWCP advised appellant that he needed to submit medical evidence to support his claimed emotional condition. Appellant subsequently submitted additional treatment records from Dr. Poopat regarding his bilateral hearing condition, but nothing pertaining to his claimed emotional condition.

On June 23, 2011 appellant stated that he was very stressed and frustrated on April 12, 2006, and his doctor advised him to go on sick leave. He believed that, with his degree of hearing loss, it was unsafe for him to continue working on the killing floor around noisy machinery. The prospect of continuing to work under those conditions was both stressful and

² Docket Nos. 04-1732 (issued December 15, 2004), 05-632 (issued June 6, 2005), 08-2459 (issued May 7, 2009) & 11-135 (issued August 9, 2011).

³ Appellant has two accepted hearing loss claims. He initially sustained injury on or about June 27, 2000 (xxxxxx6018). Appellant continued to work following his 2000 employment injury and sustained further injury on or about April 4, 2003 (xxxxxx137). OWCP combined the two hearing loss claims and designated claim number xxxxxx6018 as the master file.

frustrating. Appellant indicated that he ultimately decided to retire rather than return to work and possibly subject himself to further harm.

By decision dated July 22, 2011, OWCP declined to expand appellant's claim because he failed to establish that he developed an emotional condition as a consequence of his employment-related hearing loss.

LEGAL PRECEDENT

When an injury arises in the course of employment, every natural consequence that flows from that injury likewise arises out of the employment, unless it is the result of an independent intervening cause attributable to claimant's own intentional misconduct.⁴ Thus, a subsequent injury, be it an aggravation of the original injury or a new and distinct injury, is compensable if it is the direct and natural result of a compensable primary injury.⁵

ANALYSIS

OWCP accepted appellant's claims for bilateral/binaural noise-induced hearing loss and granted him schedule awards totaling 60 percent loss of hearing, bilaterally. At the age of 70, appellant voluntarily retired. He subsequently claimed disability beginning May 27, 2006 due to his employment-related hearing loss, which OWCP denied. Appellant now claims to have suffered a consequential injury on or about April 12, 2006.

Since his retirement in May 2006, appellant has stated on a number of occasions that he stopped working out of concern for his physical well being. Because of his hearing loss, he did not feel safe working on the killing floor. Appellant reportedly developed a stress-related emotional condition because of frustration and insecurity associated with his hearing loss.

Appellant's hearing loss may very well have caused or contributed to his sense of insecurity and frustration. However, his belief that he developed a stress-related emotional condition is not sufficient, by itself, to establish a consequential injury. Appellant bears the burden to establish entitlement to benefits under FECA. That burden includes the submission of a well-rationalized medical opinion with a specific diagnosis that is causally related to one's employment.⁶ While appellant submitted medical evidence regarding his hearing loss, the record is devoid of any rationalized medical evidence diagnosing a specific psychiatric or emotional condition, such as anxiety or mood disorder due to a medical condition, acute stress disorder, dysthymic disorder or major depressive disorder.

⁴ *Mary Poller*, 55 ECAB 483, 487 (2004); 1 Arthur Larson & Lex K. Larson, *Larson's Workers' Compensation Law* 10-1 (2006).

⁵ *Susanne W. Underwood (Randall L. Underwood)*, 53 ECAB 139, 141 n.7 (2001).

⁶ Causal relationship is a medical question, which generally requires rationalized medical opinion evidence to resolve the issue. See *Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on causal relationship must be based on a complete factual and medical background. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). In order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale. *Id.*

When asked to substantiate his emotional condition claim, appellant submitted postdated prescription pad notes from Dr. Hansen, who excused him from work for the period April 12 to May 27, 2006. In the first note dated March 8, 2008, Dr. Hansen excused appellant from work due to “illness [and] stress.” The second note excused appellant for “illness.” Dr. Hansen’s mere mention of “stress” without elaboration is insufficient to meet appellant’s burden. Moreover, he did not attribute appellant’s “illness [and] stress” to his federal employment in general, or more specifically, to his employment-related bilateral hearing loss.

Apart from his expressed belief that he has a stress-related emotional condition, appellant has not submitted a rationalized medical opinion that included a specific psychiatric diagnosis causally related to his accepted hearing loss. Accordingly, he failed to establish that he developed an emotional condition as a consequence of his employment-related hearing loss.

CONCLUSION

The Board finds that appellant failed to establish a consequential injury causally related to his accepted hearing loss.

ORDER

IT IS HEREBY ORDERED THAT the July 22, 2011 decision of the Office of Workers’ Compensation Programs is affirmed.

Issued: March 14, 2012
Washington, DC

Alec J. Koromilas, Judge
Employees’ Compensation Appeals Board

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

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