United States Department of Labor
Employees' Compensation Appeals Board

T.K., Appellant	)	
and	)	**Docket No. 13-1305**
	)	**Issued: December 16, 2013**
U.S. POSTAL SERVICE, NORTH COUNTY BRANCH, St. Louis, MO, 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 May 8, 2013 appellant filed a timely appeal from an April 24, 2013 decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) 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 OWCP met its burden of proof to terminate appellant's compensation benefits effective July 7, 2012 on the grounds that the accepted left ventricular strain had resolved.

On appeal, appellant asserts that the medical evidence establishes that his claim is compensable.

[1] 5 U.S.C. §§ 8101-8193.

FACTUAL HISTORY

On July 11, 2012 appellant, then a 55-year-old carrier technician, filed a traumatic injury claim for an employment-related heart attack on July 6, 2012, when he stopped work.[2] In an attached statement, he noted that he was delivering mail on July 6, 2012. Appellant experienced chest pains and shortness of breath and drove to a pharmacy where his blood pressure registered 163/113. When he told the pharmacist, she called 911 and he went to a hospital where he stayed for five days. Appellant submitted July 10, 2012 hospital discharge instructions from Christian Hospital Northeast. The employing establishment completed a Form CA-16, authorization for examination and/or treatment, dated July 6, 2012, authorizing hospital treatment.

In letters dated August 16, 2012, OWCP informed appellant of the additional evidence needed to accept his claim. It requested medical and hospital reports from July 6, 2012 with a physician's opinion supported by a medical explanation regarding the cause of his claimed heart condition.

In statements dated August 20, 2012, appellant noted that it was difficult to deliver mail during the summer 2012 due to extreme heat. He was delivering mail in 112 degree heat on July 6, 2012 and experienced chest pain and shortness of breath. Appellant was taken to a local emergency room by paramedics and hospitalized from July 6 to 10, 2012 where he underwent diagnostic tests. He had a second heart attack on July 29, 2012, when he fainted and was hospitalized at Baptist Hospital Medical Center. Appellant stated that he continued to have shortness of breath and high blood pressure, which was difficult to regulate.

The records from Christian Hospital Northeast related to appellant's hospitalization from July 6 to 10, 2012 noted a past medical history of hypertension, hypothyroidism, hyperlipidemia and that appellant had been off his medications. Appellant was seen in consultation by Dr. Suresh Narayanan, Board-certified in internal medicine and cardiovascular disease, who recommended testing. A discharge summary, completed by Dr. Gayathri Dundoo, a Board-certified internist, noted that appellant had cardiac risk factors including hypertension and dyslipidemia. While hospitalized, appellant had a normal electrocardiogram, an echocardiogram that demonstrated borderline left ventricular hypertrophy and moderate pulmonary hypertension and increased blood pressure during a stress test. Cardiac catheterization demonstrated normal left ventricular systolic function. A normal coronary angiogram and normal bilateral renal angiograms were also obtained. Discharge diagnoses were chest pain, hypertension, hypothyroidism, dyslipidemia and thrombocytopenia.

The hospital records from Baptist Hospital relate that appellant was admitted on July 29, 2012 and discharged on July 30, 2012 for a chief complaint of chest pain. Dr. Nicholas Brucker, Board-certified in emergency medicine, noted that appellant reported that he had a heart attack on July 6, 2012 but that his wife stated that he did not have a heart attack. Appellant had positive enzymes and an abnormal resting electrocardiogram. He was admitted for observation and underwent a cardiac catheterization which demonstrated good left ventricular function with normal coronary arteries except for plaques.

[2] Appellant filed an OWCP Form CA-2, occupational disease claim. OWCP adjudicated the claim as a traumatic injury and he received continuation of pay through August 26, 2012.

In a July 17, 2012 form report, Dr. Peggy Boyd Taylor, a Board-certified osteopath specializing in family medicine, saw appellant on July 13, 2012 following a heart attack. Appellant had a 90-day restriction on walking, lifting and carrying a mail pouch and would be totally disabled until October 2012. On August 24, 2012 Dr. Taylor noted his report of the events of July 6, 2012 and a review of the July 6, 2012 hospitalization records. She opined that appellant's chest pain was precipitated by the heat with a temperature of 112 degrees. Dr. Taylor also described the July 29, 2012 hospitalization and advised that his recuperation had been unstable due to volatile blood pressure and multiple periods of syncope. She diagnosed pulmonary hypertension, hypertensive heart disease, left ventricular strain, dyslipidemia, hypothyroidism and heat prostration. On a September 10, 2012 form report, Dr. Taylor noted that appellant had had two heart attacks and had chest pain due to left ventricular strain and pulmonary hypertension and also had thrombocytopenia. Appellant remained totally disabled.

Appellant submitted Form CA-7 claims for wage-loss compensation commencing August 27, 2012.

By decision dated October 15, 2012, OWCP found that the July 6, 2012 incident occurred as alleged. It denied appellant's claim as the medical evidence was insufficient to establish that he sustained an injury or medical condition causally related to the employment incident.

In an October 20, 2012 report, Dr. Taylor reiterated that appellant continued to have unstable blood pressure with multiple periods of syncope and advised that his medications had been adjusted accordingly. In a treatment note dated October 23, 2012, Dr. Dion Miranda, an osteopath, noted chronic problems of acute bronchitis, arthropathy of the shoulder, benign essential hypertension, esophageal reflux, ankle pain, mixed hyperlipidemia, nasal polyp, synovitis and tenosynovitis of the hand/wrist. On October 25, 2012 Dr. Taylor diagnosed left ventricular strain and uncontrolled hypertension and advised that appellant had not been released to return to work.

Appellant requested a review of the written record. He submitted numerous medical records that predated July 6, 2012 and publications regarding cardiac conditions.

By decision dated December 4, 2012, OWCP's hearing representative found that Dr. Taylor's opinion was sufficient to set aside the October 15, 2012 decision and remanded the case to refer appellant for examination by a cardiac specialist.

On February 6, 2013 OWCP referred appellant to Dr. Robert Ferrara, Board-certified in internal medicine and cardiovascular disease, for a second-opinion evaluation. Dr. Ferrara was provided a statement of accepted facts indicating that on July 6, 2012 the highest recorded temperature was 106 degrees.[3]

In an April 10, 2013 report, Dr. Ferrara noted examining appellant on February 20, 2013. Appellant complained of chest pain, heart attack and continued problems with shortness of breath since July 6, 2012 such that he had increased fatigability and could no longer work.

[3] The record includes a list of hourly recorded temperatures on July 6, 2012. This indicated that at 3:51 p.m. the heat index was 107.8 degrees.

Dr. Ferrara noted the events of July 6, 2012 and the July 29, 2012 episode and reviewed the medical evidence. He described examination findings and electrocardiogram and echocardiogram study findings.[4] Dr. Ferrara advised that the etiology of appellant's chest pain was most likely poorly controlled hypertension. Appellant's duties as a mail carrier in extreme heat on July 6, 2012 contributed to his condition that day but that the poorly controlled hypertension set the stage in the extreme heat to cause his problems that day. Dr. Ferrara stated that the etiology of appellant's syncope in July 2012 was unclear, noting that he had had no further episodes since that time. As to appellant's shortness of breath, he advised that this could be related to diastolic dysfunction as noted on appellant's echocardiogram, which was ultimately due to poorly controlled hypertension. Appellant's fatigability could not be explained by the cardiac testing performed thus far, noting that the two cardiac catheterizations performed in July 2012 revealed normal coronary anatomy. In response to specific OWCP questions, Dr. Ferrara advised that delivering mail with poorly controlled hypertension in the extreme heat combined to lead to the events of July 6, 2012 when appellant had a left ventricular strain, noting that cardiac enzymes were minimally elevated, which could be seen in left ventricular strain and cardiac catheterization showed no obstructive coronary stenoses. The diagnosis of ventricular strain that occurred on July 6, 2012 could still be present due to blood pressure that was not well controlled but that any relationship to delivering mail ended when appellant stopped delivering mail. Dr. Ferrara advised that the difficulty in controlling appellant's blood pressure could be limiting his ability to work since July 6, 2012 but was not related to delivering mail and that any work-related diagnosis no longer caused physical limitations. He concluded that he did not find a cardiac diagnosis causally related to employment factors. In an April 10, 2013 work capacity evaluation, Dr. Ferrara advised that appellant was not capable of performing his usual job due to the possibility of future injury. He indicated that appellant should avoid extreme heat due to his history of high blood pressure and provided physical restrictions of two hours walking with a 20-pound restriction on pushing, pulling and lifting for one-hour each.

On April 24, 2013 OWCP accepted that appellant sustained a traumatic injury on July 6, 2012 that caused a left ventricular strain that resolved as of July 7, 2012. It found that the weight of the medical evidence rested with the opinion of Dr. Ferrara, who found that, other than working in extreme heat while delivering mail on July 6, 2012, appellant had no employment-related cardiovascular disease.

LEGAL PRECEDENT

Once OWCP accepts a claim and pays compensation, it has the burden of justifying modification or termination of an employee's benefits. It may not terminate compensation without establishing that the disability ceased or that it was no longer related to the employment.[5] OWCP's burden of proof in terminating compensation includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.[6]

[4] Copies of the study reports are found in the case record.

[5] *Jaja K. Asaramo*, 55 ECAB 200 (2004).

[6] *Id.*

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. However, when the aggravation is temporary and leaves no permanent residuals, compensation is not payable for periods after the aggravation has ceased.[7] This is true even though the employee is found medically disqualified to continue in such employment because of the effect which the employment factors might have on the underlying condition.[8] Under such circumstances, his or her disqualification for continued employment is due to the underlying condition, without any contribution by the employment.[9]

ANALYSIS

On April 24, 2013 OWCP accepted that appellant sustained a traumatic injury on July 6, 2012 that caused left ventricular strain and that the condition resolved as of July 7, 2012. The Board finds that the weight of the medical opinion is represented by the opinion of Dr. Ferrara, who examined appellant at the request of OWCP and provided an accurate and complete factual and medical background of appellant's condition.

The record established that appellant had preexisting high blood pressure. In an April 10, 2013 report, Dr. Ferrara discussed appellant's two July 2012 hospitalizations, described examination findings and cardiac testing results, noting that the two cardiac catheterizations performed in July 2012 revealed normal coronary anatomy. He advised that delivering mail with poorly controlled hypertension in the extreme heat all combined to lead to the events of July 6, 2012 when appellant experienced left ventricular strain, indicating that cardiac enzymes were minimally elevated, which could be seen in left ventricular strain and that cardiac catheterization showed no obstructive coronary stenoses. Dr. Ferrara indicated that, while the diagnosis of ventricular strain that occurred on July 6, 2012 could still be present due to poorly controlled blood pressure, any relationship to delivering mail ended when appellant stopped delivering mail that day. He advised that, while difficulty in controlling appellant's blood pressure prevented him from performing letter carrier duties, this was not related to delivering mail and any relationship to his employment ended when he stopped work on July 6, 2012. Dr. Ferrara concluded that he did not find a cardiac diagnosis causally related to employment factors.

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 but when the aggravation is temporary and leaves no permanent residuals, compensation is not payable for periods after the aggravation has ceased.[10] This is true even though the employee is found medically disqualified to continue in such employment because of the effect which the employment factors might have on the underlying condition.[11] Under such circumstances, his or

[7] *John Watkins*, 47 ECAB 597 (1996).

[8] *Id*.

[9] *G.B.*, Docket No. 07-1625 (issued December 3, 2007).

[10] *John Watkins*, 47 ECAB 597 (1996).

[11] *Id*.

her disqualification for continued employment is due to the underlying condition, without any contribution by the employment.[12]

The reports from the July 6, 2012 hospitalization noted a past history of hypertension, hypothyroidism and hyperlipidemia and indicated that appellant had been off his medications. Cardiac risk factors included hypertension and dyslipidemia and discharge diagnoses were chest pain, hypertension, hypothyroidism, dyslipidemia and thrombocytopenia. Reports from the July 29, 2012 hospitalization noted that he was seen for chest pain and indicated that he had positive enzymes and an abnormal electrocardiogram. Cardiac catheterization during each hospitalization demonstrated normal left ventricular systolic function. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship and none of the hospital records discussed a cause of any condition.[13] Likewise, the October 23, 2012 report of Dr. Miranda is of no probative value because he did not describe a cause of any diagnosed condition.[14]

Appellant submitted medical reports from Dr. Taylor, who diagnosed several conditions that were not accepted as employment related, *i.e.*, pulmonary hypertension, hypertensive heart disease, dyslipidemia and hypothyroidism. It is his burden to provide rationalized medical evidence sufficient to establish causal relation for conditions not accepted by OWCP as being employment related, not OWCP's burden to disprove any such relationship.[15] Dr. Taylor did not provide an adqeuate explanation as to how the conditions were caused by appellant's work on July 6, 2012. She also diagnosed left ventricular strain and opined that working in the heat on July 6, 2012 caused his chest pain and that he remained totally disabled. Dr. Taylor did not described the mechanism of injury or provide rationale for her conclusions, merely indicating that appellant's recuperation was hampered by unstable, uncontrolled blood pressure and multiple periods of syncope. Her opinion is therefore of limited probative value on the issue of whether his continued disability is related to the July 6, 2012 employment injury.[16]

Appellant also submitted publications regarding cardiac conditions. The Board has long held that excerpts from publications have little probative value in resolving medical questions unless a physician shows the applicability of the general medical principles discussed in the

[12] *G.B.*, *supra* note 9.

[13] *Willie M. Miller*, 53 ECAB 697 (2002).

[14] *Id*.

[15] *Alice J. Tysinger*, 51 ECAB 638 (2000).

[16] 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 factor. The opinion of a physician must be based on a complete factual and medical background of the claimant, 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 factor identified by the claimant. *Sedi L. Graham*, 57 ECAB 494 (2006).

articles to the specific factual situation at issue in the case.[17] There is no such opinion in this case.

The weight of the medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.[18] The Board finds that the weight of the medical evidence rests with the April 10, 2013 second opinion evaluation of Dr. Ferrara. Appellant has not submitted a physician's rationalized medical report based on a complete factual and medical background opining that the July 6, 2012 episode caused a permanent aggravation of his underlying hypertension or caused any other condition including a permanent left ventricular strain. The Board finds that OWCP met its burden of proof in finding that the July 6, 2012 employment injury resolved on July 7, 2012.

The employing establishment properly executed a Form CA-16 which authorized medical treatment as a result of the employee's claim for an employment-related injury. The Form CA-16 creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim.[19] The period for which treatment is authorized by a Form CA-16 is limited to 60 days from the date of issuance, unless terminated earlier by OWCP.[20] On return of the record OWCP should adjudicate whether appellant's examination or treatment is reimbursable under the form.

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 OWCP met its burden of proof to terminate appellant's compensation benefits effective July 7, 2012.

[17] *Roger G. Payne*, 55 ECAB 535 (2004).

[18] *C.B.*, Docket No. 08-1583 (issued December 9, 2008).

[19] *See Tracy P. Spillane*, 54 ECAB 608 (2003).

[20] *See* 20 C.F.R. § 10.300(c).

ORDER

IT IS HEREBY ORDERED THAT the April 24, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 16, 2013
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