United States Department of Labor
Employees' Compensation Appeals Board

P.R., Appellant	)	
and	)	**Docket No. 13-1334**
	)	**Issued: December 18, 2013**
DEPARTMENT OF THE AIR FORCE, DOBBINS AIR BASE RESERVE FIRE DEPARTMENT, Marietta, GA, 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 13, 2013 appellant filed a timely appeal of an April 5, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP), concerning denying his traumatic injury claim. 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 appellant established that his atrial fibrillation was caused or aggravated by the September 24, 2012 employment incident.

[1] 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On December 11, 2012 appellant, then a 49-year-old firefighter (hazmat technician), filed an occupational disease claim alleging that on September 24, 2012 he first realized that his atrial fibrillation had been "aggravated during stand-by operations in the heat."

By letter dated December 19, 2012, OWCP informed appellant that the evidence was insufficient to support his claim. It requested clarification as to whether he was filing alleging a traumatic injury or occupational disease. OWCP advised appellant as to the medical and factual evidence required to support his claim and gave him 30 days to provide this information. Appellant responded that he was claiming a traumatic injury occurring on September 24 2012. He submitted no additional evidence.

By decision dated January 23, 2013, OWCP denied appellant's claim of traumatic injury. It then denied his claim on the grounds that fact of incident had not been established.

On January 23, 2013 appellant requested reconsideration and submitted medical and factual evidence. He described the September 24, 2012 incident. Appellant related that on September 24, 2012 he was sitting in a fire truck in hot weather and the air conditioning in the truck was not working. After approximately 35 minutes he felt his heart racing and his right arm began to hurt. Appellant went to a local emergency room for evaluation and was diagnosed with atrial fibrillation.

In a September 26, 2012 discharge report from Piedmont Hospital, Michelle Roland, a registered nurse, diagnosed atrial fibrillation. She instructed appellant to see his primary care physician to manage his condition.

In a September 28, 2012 return to work form, Dr. Ingrid R. Burton-Hikes, a treating physician, and Dr. Elsie Morris, a treating physician, noted appellant was seen on September 28, 2012. On September 24, 2012 appellant was admitted for evaluation and treatment at the hospital for a sudden onset of atrial fibrillation. The record also contains undated medical reports noting that he was hospitalized at Piedmont Hospital from September 24 to 26, 2012 for atrial fibrillation.

On October 11, 2012 Dr. Thelsa Pulikkotil, a treating Board-certified internist and cardiologist, stated that appellant was treated that day for various conditions, including hypertension, left ventricular hypertrophy, sleep apnea/sleep disorder, anxiety and paroxysmal ventricular tachycardia. In an October 16, 2012 report, she noted that he was hospitalized in September 2012 for atrial fibrillation. Dr. Pulikkotil provided findings from physical examination and diagnostic testing. She related a history over the past few years of heart palpitations including a recent episode of persistent palpitations.

In a March 6, 2013 duty status report (Form CA-17), Dr. Pulikkotil listed an injury date of September 24, 2013 and provided a description of how it occurred. She diagnosed paroxysmal atrial fibrillation and wrote "no" to the question of whether the diagnosed condition was due to the injury.

In a March 6, 2013 report, Dr. Pulikkotil released appellant to light-duty work. She reported that he was seen that day and treated for chronic conditions of atrial fibrillation, hypertension, diabetes and obstructive sleep apnea.

In an April 5, 2013 decision, OWCP accepted that the September 24, 2012 incident occurred as alleged. It denied appellant's claim on the grounds that the medical evidence was insufficient to establish that the exposure to high temperature on September 24, 2012 caused or aggravated the diagnosed atrial fibrillation.[2]

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] 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; 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.[4] These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.[5]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty it must first be determined whether a fact of injury has been established.[6] First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.[7] Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.[8]

The claimant has the burden of establishing by the weight of reliable, probative and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to specific conditions of employment.[9] An award of compensation may not be based on appellant's belief of causal relationship. Neither the mere

[2] The Board notes that appellant has submitted new evidence with his appeal. However, the Board may only review evidence that was in the record at the time OWCP issued its final decision. *See* 20 C.F.R. §§ 501.2(c)(1); *M.B.*, Docket No. 09-176 (issued September 23, 2009); *J.T.*, 59 ECAB 293 (2008); *G.G.*, 58 ECAB 389 (2007); *Donald R. Gervasi*, 57 ECAB 281 (2005); *Rosemary A. Kayes*, 54 ECAB 373 (2003).

[3] 5 U.S.C. § 8101 *et seq.*

[4] *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

[5] *S.P.*, 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

[6] *B.F.*, Docket No. 09-60 (issued March 17, 2009); *Bonnie A. Contreras*, *supra* note 4.

[7] *D.B.*, 58 ECAB 464 (2007); *David Apgar*, 57 ECAB 137 (2005).

[8] *C.B.*, Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734 (2008); *Bonnie A. Contreras*, *supra* note 4.

[9] *Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006); *Katherine J. Friday*, 47 ECAB 591 (1996).

fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish a causal relationship.[10]

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.[11] 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.[12] 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.[13]

ANALYSIS

Appellant filed a claim alleged that his atrial fibrillation had been caused or aggravated by sitting in a fire truck on a hot day without air conditioning on September 24, 2012. On April 5, 2013 OWCP denied his claim on the grounds that the medical evidence did not establish that the diagnosed condition of atrial fibrillation had been caused or aggravated by the accepted September 24, 2012 employment incident. The Board finds that appellant has failed to meet his burden of proof.

None of the medical evidence submitted by appellant contains any opinion discussing how appellant's atrial fibrillation was caused or aggravated by accepted the September 24, 2012 employment incident. The September 26, 2012 Piedmont Hospital report,[14] September 28, 2012 return to work form, undated letter from Concentra Medical and October 16, 2012 report by Dr. Pulikkotil all noted that appellant was hospitalized from September 24 to 26, 2012 for treatment of atrial fibrillation. The record also contains an October 11, 2012 report from Dr. Pulikkotil noting that appellant was seen that day and providing diagnoses. None of these reports discuss what caused the atrial fibrillation or even mention that appellant had been sitting in a hot fire truck on September 24, 2012. Medical evidence that does not offer any opinion

[10] *P.K.*, Docket No. 08-2551 (issued June 2, 2009); *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

[11] *Y.J.*, Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149 (2006); *D'Wayne Avila*, 57 ECAB 642 (2006).

[12] *J.J.*, Docket No. 09-27 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

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

[14] The Board also notes that the discharge note was signed by Ms. Roland, a nurse. The Board notes that nurses are not considered to be physicians as defined under FECA and, thus, their reports are of no probative value. *See B.B.*, Docket No. 09-1858 (issued April 16, 2010); *L.D.*, 59 ECAB 648 (2008); *G.G.*, 58 ECAB 389 (2007); *David P. Sawchuk*, 57 ECAB 316 (2006) (lay individuals such as physician's assistants, nurses and physical therapists are not competent to render a medical opinion under FECA); 5 U.S.C. § 8101(2) (this subsection defines a physician as surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law).

regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship.[15]

The record also contains a March 6, 2013 duty status report from Dr. Pulikkotil releasing appellant to work with restrictions, noting the history of the September 24, 2012 employment incident and diagnosing paroxysmal atrial fibrillation. This report is insufficient to support appellant's burden of proof as Dr. Pulikkotil negates any causal relationship between the September 24, 2012 employment incident and his atrial fibrillation.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's conditions became apparent during a period of employment nor the belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.[16] Causal relationship must be established by rationalized medical opinion evidence and he failed to submit such evidence.

OWCP advised appellant of the evidence required to establish his claim; however, he failed to submit such evidence. Consequently, appellant has not met his burden of proof in establishing that his claimed atrial fibrillation was caused or aggravated by the accepted September 24, 2012 employment incident.

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 failed to establish that his atrial fibrillation was caused or aggravated by the accepted September 24, 2012 employment incident.

[15] *K.W.*, 59 ECAB 271 (2007); *Conard Hightower*, 54 ECAB 796 (2003); *Michael E. Smith*, 50 ECAB 313 (1999).

[16] *See D.U.*, Docket No. 10-144 (issued July 27, 2010); *D.I.*, 59 ECAB 158 (2007); *Robert Broome*, 55 ECAB 339 (2004); *Anna C. Leanza*, 48 ECAB 115 (1996).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 5, 2013 is affirmed.

Issued: December 18, 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