

shoulder and the left side of his chest while engaging in lifting, loading, sweeping and preparing flat mail on April 19, 2010.

In a statement received by OWCP on April 28, 2010, appellant's manager, Renee Chenee, indicated that, on April 20, 2010, at approximately 3:10 p.m., he told her that he was having chest pains. She called 911 and an ambulance arrived at the worksite. Appellant told the paramedics that he felt similar to when he experienced angina on a previous occasion. He was taken by ambulance to the emergency room.

In an e-mail dated April 27, 2010, appellant's supervisor, Luther Martinez, stated that he saw appellant on April 20, 2010 at approximately 3:20 p.m., in the manager's office, when he complained of chest and shoulder pain radiating down to his groin. He immediately notified the worksite manager, who called 911; emergency personnel arrived a short time later and appellant was evaluated at the hospital on April 20, 2010.

In a Form CA-17 report dated May 6, 2010, it was indicated that appellant had sustained an injury at work on April 20, 2010 while prepping, sweeping and loading.

Dr. Melvin Romero, a Board-certified family practitioner, submitted several reports from May to August 2010 in which he indicated that appellant believed that he injured his shoulder at work while engaged in heavy lifting, carrying and other, typical work duties. He opined that the etiology of appellant's left shoulder condition was musculoskeletal.

In a hospital emergency report dated April 20, 2010, it was reported that appellant stated that he had an acute onset of substernal chest pain at 3:15 p.m., while standing and working at the employing establishment, in addition to dizziness, dyspnea and nausea. Appellant advised that this pain was consistent with an episode in 2004 when he had to have a cardiac catheterization. He indicated that the pain radiated to his left shoulder, upper back, lower back and groin.

By decision dated August 3, 2010, OWCP denied appellant's claim because the evidence of record was insufficient to establish that the claimed medical condition was causally related to the identified employment incident.

By letter dated August 6, 2010, appellant's attorney requested an oral hearing, which was held on November 3, 2010.

In a September 27, 2010 statement, appellant asserted that on April 20, 2010 at about 2:00 p.m. he began to feel very warm, light headed and experienced a sharp pain in his left chest. He went to his manager's office to report his condition to receive assistance; he believed he was having a heart attack, with symptoms of sweating, slight nausea, sharp chest and left arm pain. After spending the night at the hospital, however, he was released the next morning and cleared of having any heart-related problems. Appellant stated that his injury occurred on April 20, 2010, while he was prepping mail. At the hearing, he stated that on April 20, 2010 he was at the prepping area, reaching for a tub of mail going down an incline belt when he felt a stabbing pain in his left shoulder and chest area. Appellant testified that, after being transported to the hospital for his reported pain, he underwent testing for a heart condition. He was advised by his physician the next day that he did not have a heart condition and the symptoms were most likely muscularoskeletal in origin.

By decision dated January 12, 2011, an OWCP hearing representative affirmed OWCP's August 3, 2010 decision denying appellant's claim. However, she modified the decision, finding that appellant had not established that the alleged April 20, 2010 injury occurred as alleged. OWCP denied payment for medical bills incurred during appellant's hospitalization on April 20, 2010.

By decision dated January 27, 2012,² the Board affirmed the January 12, 2011 OWCP decision. The Board determined that appellant established fact of injury, finding that the evidence of record was sufficient to establish that appellant reached for a tub of mail on April 20, 2010, at the time, place and in the manner alleged and that he experienced shoulder and chest pain. The Board found, however, that appellant failed to submit rationalized medical opinion evidence to establish how the claimed April 20, 2010 incident was competent to cause a left shoulder injury. In addition, the Board noted that OWCP did not adjudicate whether appellant's medical expenses incurred on April 20, 2010 were compensable. The Board stated that the record did not contain a Form CA- 16 or any other authorization from OWCP for medical treatment. While the record established that appellant was taken by ambulance to a hospital emergency room from the employing establishment at the request of his supervisors on April 20, 2010 incident, OWCP did not adjudicate whether emergency or unusual circumstances were present. The Board therefore set aside the January 12, 2011 decision and remanded for a determination as to whether medical care on April 20, 2010 was authorized, and whether unauthorized medical care on April 20, 2010 involved emergency or unusual circumstances and was reimbursable. The complete facts of this case are set forth in the Board's January 27, 2012 decision and herein incorporated by reference.

By letter dated February 8, 2012, OWCP asked the employing establishment whether appellant's immediate superior authorized emergency medical treatment related to his alleged April 20, 2010 work injury on a Form CA-16, and, if so, to direct his immediate supervisor to provide a copy of the CA-16. It stated that, if this copy could not be found, the employing establishment should ask appellant's immediate superior to certify that the emergency expenses incurred with respect to the alleged April 20, 2010 injury were accepted as compensable under 5 U.S.C. § 8103.

In addition, OWCP asked the employing establishment whether appellant's immediate superior obtained authorization from OWCP for emergency medical treatment related to his alleged April 20, 2010 work injury, and, if so, to direct his immediate superior to provide a statement certifying the date of the authorization and the name and district OWCP of the authorizing OWCP official.

In a February 17, 2012 memorandum, the employing establishment informed OWCP that appellant told his supervisor that he thought that he was having a heart attack; consequently, the manager called an ambulance which took him to the Veterans Administration (VA) hospital. OWCP was not called because there was no indication that this was a work-related injury. The employing establishment stated that the manager agreed that emergency services were not called or provided for a work-related condition on April 20, 2010.

² Docket No. 11-886 (issued January 27, 2012).

In a March 7, 2012 memorandum, the employing establishment informed OWCP that appellant told his supervisor that he thought his heart attack was related to military service and requested to be taken to the VA hospital. The employing establishment stated that appellant agreed with his supervisor that there was no indication that this was a work-related emergency.

In a March 7, 2012 statement, the employing establishment informed OWCP that Supervisor Martinez was the supervisor who contacted emergency services on April 20, 2010. Mr. Martinez was approached by appellant, who told him that he was having chest pains and thought he was having a heart attack. He called 911 to assist appellant in obtaining emergency medical care under the premise that he was suffering a life threatening medical issue unrelated to his employment. Appellant was not issued a Form CA-16, nor was one provided to the hospital at a later date. The employing establishment stated that appellant instructed EMT to take him to the VA Hospital as he thought his heart attack might be related to a service-related condition. The manager on duty was also contacted and she indicated that 911 was contacted for a nonjob-related issue; at no time did anyone consider that this “heart attack” might be work related until appellant filed a traumatic injury claim. Appellant remembered approaching his supervisor on April 20, 2010 and indicating that he was having a heart attack; he also remembered holding his left arm. He did not indicate, however, that his “heart attack” was job related. The employing establishment stated that appellant believed his “heart attack” was service connected.

By decision dated March 13, 2012, OWCP denied appellant’s claim for medical expenses on April 20, 2010. It found that, as the evidence of record established that a Form CA-16 was not issued and that no authorization for medical treatment was obtained from OWCP, there were no emergency or unusual circumstances present that indicated reimbursement for medical expenses on April 20, 2010 should have been approved.

By letter dated March 19, 2012, appellant’s attorney requested an oral hearing, which was held on June 12, 2012. At the hearing appellant stated that he was seeking reimbursement for medical treatment he received on April 20, 2010, including a physician’s examination, x-ray tests and ambulance usage.

In a statement dated July 17, 2012, appellant asserted that the employing establishment falsely asserted that he stated that he believed his condition was service connected. He noted that he did not have any service-connected conditions, although he was entitled to receive medical treatment with the VA because he is a veteran of military service. Appellant asserted that he never stated that he was having a service-connected heart attack.

By decision dated September 10, 2012, an OWCP hearing representative affirmed the March 13, 2012 decision.

LEGAL PRECEDENT

Section 8103 of FECA³ provides that the United States shall furnish to an employee who is injured while in the performance of duty, the services, appliances and supplies prescribed or

³ 5 U.S.C. §§ 8101-8193.

recommended by a qualified physician, which OWCP considers likely to cure, give relief, reduce the degree or the period of disability or aid in lessening the amount of monthly compensation.⁴ In interpreting this section of FECA, the Board has recognized that OWCP has broad discretion in approving services provided under section 8103, with the only limitation on OWCP's authority being that of reasonableness.⁵ Abuse of discretion is generally shown through proof of manifest error, clearly unreasonable exercise of judgment or actions taken which are contrary to both logic and probable deductions from established facts. It is not enough to merely show that the evidence could be construed so as to produce a contrary factual conclusion.⁶ In order to be entitled to reimbursement for medical expenses, a claimant must establish that the expenditures were incurred for treatment of the effects of an employment-related injury.⁷

ANALYSIS

Ordinarily, the employing establishment will authorize treatment of a job-related injury by providing the employee a properly executed Form CA-16.⁸ In this case, the record does not contain a Form CA-16 or any other authorization from OWCP would create a contractual obligation for it to pay for the cost of appellant's examination or medical treatment regardless of the action taken on his claim. In addition, appellant's immediate superior did not certify that the emergency expenses incurred with respect to the alleged April 20, 2010 injury were accepted as compensable under 5 U.S.C. § 8103. While appellant denied telling the employing establishment that his condition on April 20, 2010 was service connected, there is no indication that he told the employing establishment that his chest pain was work related.⁹ Accordingly, there was no indication that he sustained a work-related injury at the time medical services were provided.

As appellant did not sustain a work-related injury and did not obtain authorization for the medical services and treatment provided, there is no basis under FECA or its implementing regulations for the payment of expenses arising from the April 20, 2012 medical treatment. Additionally, there is no evidence of an emergency or other unusual circumstance.¹⁰ Therefore,

⁴ *Id.* at § 8103. See *Thomas W. Stevens*, 50 ECAB 288 (1999).

⁵ *James R. Bell*, 52 ECAB 414 (2001).

⁶ *Claudia L. Yantis*, 48 ECAB 495 (1997).

⁷ *Cathy B. Millin*, 51 ECAB 331 (2000).

⁸ *Val D. Wynn*, 40 ECAB 666 (1989); see also Federal (FECA) Procedure Manual, Part 3 -- Medical, *Authorizing Examination and Treatment*, Chapter 3.300.3(a)(3) (September 1995).

⁹ The evidence submitted by an employing establishment on the basis of their records will prevail over the assertions from the claimant unless such assertions are supported by documentary evidence. See generally *Sue A. Sedgwick*, 45 ECAB 211, 218 n.4 (1993); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Computation of Compensation*, Chapter 2.900(b)(3) (September 1990).

¹⁰ Under section 8103 of FECA, OWCP has broad discretionary authority to approve unauthorized medical care which it finds necessary and reasonable in cases of emergency or other unusual circumstances. 5 U.S.C. § 8103; 20 C.F.R. § 10.304. See *Val D. Wynn*, *supra* note 8; see also Federal (FECA) Procedure Manual, Part 3 -- Medical, *Authorizing Examination and Treatment*, Chapter 3.300.3(a)(3) (September 1995).

the Board finds the evidence does not support reimbursement for the medical expenses. The Board will affirm the September 20, 2012 OWCP decision.

CONCLUSION

The Board finds that OWCP properly exercised its discretion in denying payment of medical treatment and services on April 20, 2010.

ORDER

IT IS HEREBY ORDERED THAT the September 10, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 19, 2013
Washington, DC

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

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board