

Appellant submitted an August 1, 2013 report from Dr. Malcolm S. Dean, an internist, who indicated that appellant should rest and resume usual activity after 24 hours.

In an August 16, 2013 letter, OWCP notified appellant of the deficiencies of his claim and requested additional evidence, including a comprehensive report from his treating physician with a medical explanation as to how the reported employment incident caused or aggravated his condition. It afforded him 30 days to submit additional evidence and respond to its inquiries.

Subsequently, appellant submitted a September 3, 2013 narrative statement indicating that he was delivering mail at the time of injury when he opened a mailbox and felt a numbness/tingling feeling run down his arm. He attempted to put the mail in the mailbox but could not accurately control the movement of his right arm. Appellant continued to deliver mail with continuing difficulty for the next 10 minutes and, then realizing that he had a problem, called his supervisor, Cherie Ferguson. He described the problem to her and she told him to stay where he was and that she was coming to get him. Upon Ms. Ferguson's arrival with another letter carrier, appellant turned his mail and vehicle over and she transported him to the nearest hospital where he was diagnosed with a stroke. Appellant stated that he never had any similar disability or symptoms prior to that episode.

In an e-mail message dated August 1, 2013, Ms. Ferguson indicated that appellant had suddenly lost use of his right arm and could not grasp the mail or shift his vehicle. Appellant requested medical attention and she picked him up and transported him to the hospital where they were keeping him overnight for possible light stroke.

Appellant submitted numerous medical, diagnostic and hospital reports dated August 1 to 3, 2013, including an echocardiogram dated August 2, 2013.

On August 1, 2013 Dr. George L. Ward, a Board-certified emergency medicine physician, diagnosed CVA cerebral artery without mention of cerebral infarction.

In an August 1, 2013 report, Dr. Shahjahan Sultan, a Board-certified internist, diagnosed stroke with manifestation of weakness in the right upper extremity, hyperlipidemia, mood disorder and reflux. He indicated that appellant was a postman who had weakness upon flexion and extension of his right upper extremity.

On August 2, 2013 Dr. Abha Mishra, a Board-certified neurologist, diagnosed acute cortical stroke with subtle right-sided deficits in the setting of dyslipidemia.

In an August 2, 2013 report, Dr. Lee Voulters, a Board-certified neurologist, diagnosed dyslipidemia and acute CVA with mild right-sided weakness, resolved.

On August 3, 2013 Dr. Dean diagnosed CVA, hypertension, history of gastroesophageal reflux disease, history of depression and dyslipidemia. He reported that appellant was admitted with right upper extremity weakness and his symptoms resolved after he was admitted. Appellant was found to have a small acute infarct on magnetic resonance imaging (MRI) scan.

By decision dated September 20, 2013, OWCP denied the claim finding that the evidence failed to establish a causal relationship between appellant's CVA and the August 1, 2013 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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 timely filed within the applicable time limitation period of FECA, that an injury³ was sustained in the performance of duty, as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁴

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. A fact of injury determination is based on two elements. 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. 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. An employee may establish that the employment incident occurred as alleged but fail to show that his or her condition relates to the employment incident.⁵

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. 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.⁶

ANALYSIS

OWCP has accepted that the employment incident of August 1, 2013 occurred at the time, place and in the manner alleged. The issue is whether appellant’s CVA resulted from the August 1, 2013 employment incident. The Board finds that appellant did not meet his burden of proof to establish a causal relationship between the conditions for which compensation is claimed and the employment incident.

In his reports, Dr. Dean diagnosed CVA, hypertension, history of gastroesophageal reflux disease, history of depression and dyslipidemia. He reported that appellant was admitted with right upper extremity weakness and his symptoms resolved after he was admitted and was found

² *Id.*

³ OWCP regulations define a traumatic injury as a condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected. 20 C.F.R. § 10.5(ee).

⁴ See *T.H.*, 59 ECAB 388 (2008). See also *Steven S. Saleh*, 55 ECAB 169 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *Id.* See *Shirley A. Temple*, 48 ECAB 404 (1997); *John J. Carlone*, 41 ECAB 354 (1989).

⁶ *Id.* See *Gary J. Watling*, 52 ECAB 278 (2001).

to have a small acute infarct on the MRI scan. Dr. Dean did not provide medical rationale explaining the mechanism of how appellant's cerebral vascular accident was caused or aggravated by opening a mailbox while on duty on August 1, 2013. He noted that appellant's conditions occurred while delivering mail at work. However, such generalized statements do not establish causal relationship because they merely repeat appellant's allegations and are unsupported by adequate medical rationale explaining how this physical activity actually caused the diagnosed conditions.⁷ Lacking thorough medical rationale on the issue of causal relationship, Dr. Dean's reports are of limited probative value and insufficient to establish that appellant sustained an employment-related injury in the performance of duty on August 1, 2013.

On August 1, 2013 Dr. Ward diagnosed CVA, cerebral artery without mention of cerebral infarction and Dr. Sultan diagnosed stroke with manifestation of weakness in the right upper extremity, hyperlipidemia, mood disorder and reflux. The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.⁸ An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor is the belief that his condition was caused, precipitated or aggravated by his employment sufficient to establish causal relationship.⁹ Therefore, the Board finds that appellant has not met his burden of proof with the submission of the reports from Drs. Ward and Sultan.

On August 2, 2013 Dr. Mishra diagnosed acute cortical stroke with subtle right-sided deficits in the setting of dyslipidemia and Dr. Voulters diagnosed dyslipidemia and acute CVA with mild right-sided weakness, resolved. The Board has held that 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.¹⁰ Thus, appellant has not met his burden of proof with these submissions.

The August 1, 2013 e-mail message from appellant's supervisor describing the events of that day does not constitute medical evidence as it was not prepared by a physician.¹¹ As such, the Board finds that appellant did not meet his burden of proof with this submission.

Similarly, the August 2, 2013 echocardiogram report is diagnostic in nature and therefore does not address causal relationship. As such, the Board finds that it is insufficient to establish appellant's claim.

As appellant has not submitted any rationalized medical evidence to support his allegation that he sustained an injury causally related to an August 1, 2013 employment incident, he has failed to meet his burden of proof to establish a claim for compensation.

⁷ See *K.W.*, Docket No. 10-98 (issued September 10, 2010).

⁸ See *Joe T. Williams*, 44 ECAB 518, 521 (1993).

⁹ *Id.*

¹⁰ See *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

¹¹ See 5 U.S.C. § 8101(2).

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 has not met his burden of proof to establish that his CVA is causally related to an August 1, 2013 employment incident, as alleged.

ORDER

IT IS HEREBY ORDERED THAT the September 20, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 1, 2014
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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