United States Department of Labor
Employees' Compensation Appeals Board

C.L., Appellant	)	
and	)	**Docket No. 14-1069**
	)	**Issued: February 22, 2016**
U.S. PEACE CORPS, OFFICE OF MEDICAL SERVICES, Nairobi, Kenya, Employer	)	

Appearances:
Thomas S. Harkins, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
COLLEEN DUFFY KIKO, Judge
ALEC J. KOROMILAS, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On April 8, 2014 appellant, through counsel, filed a timely appeal of a February 2, 2014 merit 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.

ISSUES

The issues are: (1) whether appellant sustained a consequential reactive arthritis condition and fibromyalgia causally related to her accepted inflammatory polyarthritis condition; and (2) whether she met her burden of proof to establish disability from June 1, 2007 to July 13, 2012, due to her accepted condition.

[1] 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On September 27, 2000 appellant, then a 24-year-old Peace Corps volunteer in Kenya East Africa, filed an occupational disease claim alleging that she developed an arthritis condition affecting various areas of her body, which she attributed to her service with the Peace Corps. She explained that she became aware of the condition on February 1, 1999 and that it began after she washed her laundry by hand. In a supplemental statement, appellant further explained that one day in February 1999 while doing her laundry by hand she noticed that the knuckle above her right index finger was swollen and red. At that time she thought the condition would just improve on its own. After two weeks it did start to improve, but then it again worsened. Appellant sought treatment in Nairobi and was first given antibiotics, which did not help. She was then given blood work and an anti-inflammatory which helped, but the pain and discomfort returned when she stopped taking the anti-inflammatory. The pain, swelling, stiffness, and redness gradually spread to appellant's other fingers of the right hand.

In October 1999, appellant flew home to Washington DC and, while enroute, her knees became painful. She sought treatment from Dr. Joseph P. Laukaitis, Board-certified in rheumatology. After Dr. Laukaitis prescribed Voltaren and performed blood work, he diagnosed "polyarthritis." Appellant further stated that, after she returned to Kenya, the symptoms gradually increased. She explained that daily life in Kenya required doing most things by hand, like washing clothes or digging the field; and entailed living in rough conditions. Finally, appellant noted that she had never had any joint problems before she joined the Peace Corps.

In a report dated October 25, 1999, Dr. Laukaitis related that appellant was seen for evaluation of increasing pain and stiffness in multiple joints. He stated that her relevant history began in 1998, during her first year in Africa, when she developed chronic diarrhea and she was hospitalized and treated for amoebiasis and giardiasis. In February 1999, appellant developed joint pain in her right hand after washing clothes by hand. Dr. Laukaitis then related her history of increasing symptomology and her medical history, as well as a family history of osteoarthritis, and juvenile rheumatoid arthritis. Following a medical examination, he concluded that appellant's clinical presentation was consistent with that of inflammatory polyarthritis. Dr. Laukaitis opined that the most likely etiologies included a reactive arthritis, following prolonged diarrheal illness in 1998 and early 1999, early rheumatoid arthritis or an infectious etiology, however, the infection was much less likely. He concluded that, if arthritis remained fairly quiescent, appellant could return to Kenya to complete her contract. Appellant's volunteer appointment ended on August 15, 2000.

On January 17, 2001 OWCP accepted the claim for inflammatory polyarthritis.

As of May 23, 2003 appellant continued to undergo frequent laboratory tests and medical treatment for reactive arthritis and fibromyalgia, with Drs. Jeffrey Alloway and John L. Lawson, Board-certified rheumatologists.[2] Following Dr. Lawson's death, she continued to submit progress notes from the Center for Rheumatology, beginning May 19, 2006. These progress notes continued to note appellant's symptoms and note diagnoses of reactive arthritis and

[2] Dr. Lawson died on March 28, 2006. Progress notes from the Center for Rheumatology were thereafter unsigned.

fibromyalgia. In an unsigned progress note dated April 6, 2007 it was noted that appellant's reactive polyarthritis was stable and her fibromyalgia was improved. It was further noted that her husband had been transferred to a military base in Germany and that she would be moving in the next four to six weeks.

In an August 11, 2010 report, Dr. Thomas L. Irvin, Board-certified in rheumatology, stated that he had been treating appellant since July 2007 and that she had a history of reactive arthritis and fibromyalgia syndrome since 1999. He advised that at the time of the onset of these conditions she was serving in the Peace Corps in Kenya, when she developed a dysentery-type illness. Appellant subsequently noted arthritic discomfort involving parts of her hands and her back. Dr. Irvin treated her with antibiotics and nonsteroidal anti-inflammatory agents which did not result in substantial improvement. Appellant had elevated acute phase reactants and was given a trial of Enbrel, a biologic response modifier, for several months in 2006. Dr. Irvin opined that her fibromyalgia syndrome was manifested by chronic musculoskeletal discomfort, fatigue, irritable bowel, and bladder-type symptoms, multiple tender points, headaches, and sleep disturbance but was stable on her current medical regimen.

Dr. Irvin stated that appellant's reactive arthritis was stable on her current medical regimen.

In a report dated May 20, 2011, received by OWCP on September 2, 2011, Dr. Simon Helfgott, Board-certified in rheumatology, advised that he was treating appellant for follow-up of reactive arthritis.

In a May 24, 2011 report, received by OWCP on September 2, 2011, Dr. Helfgott stated that he was treating appellant for inflammatory polyarthralgia and polyarthritis which manifested as a reactive arthritis. He advised that this all developed as a consequence of infections she acquired while working with the Peace Corps in Kenya. Dr. Helfgott opined that the secondary fibromyalgia symptoms that appellant was experiencing were also a consequence of this diagnosis.

On March 7, 2012 OWCP accepted the claim for the additional condition of Sjögren's syndrome.

On July 13, 2012 appellant submitted a Form CA-7 requesting compensation for wage loss for the period June 1, 2007 to July 13, 2012.

In an August 13, 2012 report, Dr. Helfgott stated that appellant had developed a persistent inflammatory arthritis known as a reactive arthritis. He opined that this was caused by her exposure to an unknown pathogen while she was working for the Peace Corps in Africa. Dr. Helfgott noted that appellant had a history of an ongoing, active arthritis which involved many joints including the metacarpal phalangeal joints of both hands, as well as some of the larger joints. He advised that her problems were complicated by her history of Sjögren's syndrome with sicca symptoms. Appellant continued to have subjective complaints of pain and stiffness, which were not uncommon with either Sjögren's syndrome or reactive arthritis. Dr. Helfgott reiterated that there was a causal relationship between her reactive arthritis developing and her exposure to pathogens while working for the Peace Corps in Africa. He

advised that once reactive arthritis establishes itself, it was often very hard, if not impossible, to fully eradicate the symptoms which increase with activities. Dr. Helfgott opined that appellant's disability was total at the present time and most likely permanent. He based this assumption on the fact that she had experienced symptoms for a number of years and it would be unlikely for a spontaneous remission to occur.

By decision dated October 12, 2012, OWCP denied appellant's claim for disability from June 1, 2007 to July 13, 2012, finding that the evidence of record failed to establish that her disability was causally related to her accepted employment-related inflammatory polyarthritis condition.

On November 26, 2012 appellant requested reconsideration and submitted a new medical report.

In a report dated November 1, 2012, Dr. Helfgott reiterated that he was treating appellant for reactive arthritis. He advised that her condition was essentially the same since he last saw her, except for some increasing right heel pain which had developed over her right heel. Appellant was experiencing trouble bearing weight because of the discomfort; she related that the pain was present in virtually all of her joints, except perhaps the neck and shoulders. Dr. Helfgott advised that appellant also had increasing pain in her heels because of presumed plantar fasciitis. This could be due to either her mechanical-induced foot injury or to her underlying reactive arthritis. Dr. Helfgott stated that appellant was totally disabled by her reactive arthritis due to her ongoing symptoms of pain, stiffness and discomfort in all of her joints. He opined that her reactive arthritis was a consequence of her exposure to microbiologic pathogens while working in Africa, since her diagnosis of reactive arthritis was made in that time frame, and her clinical presentation was entirely consistent with a microbial-associated reactive arthritis.

By decision dated December 5, 2012, OWCP denied modification of the October 12, 2012 decision.

On November 27, 2013 counsel requested reconsideration. In letters dated November 27 and December 6, 2013, he contended that the reports of Drs. Irvin and Helfgott established that appellant developed the additional conditions of fibromyalgia and reactive arthritis as a consequence of her exposure to pathogens while working for the Peace Corps in Africa, which were causally related to her accepted condition of reactive arthritis. Counsel argued that OWCP should expand the claim to accept these additional conditions. He further contended that appellant was totally disabled from June 1, 2007 to July 13, 2012 and continuing due to these conditions.

In a report dated November 27, 2013, Dr. Helfgott reiterated that appellant acquired her reactive arthritis condition while working for the Peace Corps in Africa. He advised that the medical literature pertaining to this condition was extensive and that in most cases patients develop the arthritis following exposure to a variety of pathogens. Dr. Helfgott stated:

> "In most cases the pathogens cannot be easily cultured. The patients then go on to develop persistent joint pain and swelling. In about one third of cases this

resolves after a short course. In another third of cases patients may occasionally relapse and in the final third of cases the symptoms can be chronic. I would place [appellant's] condition in this latter group since she requires long-term use of an anti-TNF blocker to control her joint pain and inflammation. In addition, I believe that the fatigue and [sicca] symptoms that she describes are manifestations of her reactive arthritis. These manifestations can also be seen in a sizable segment of this population.

"Thus it is my opinion that the described factors of deemed federal employment were the proximate cause of the described medical condition namely the reactive arthritis and secondary fatigue and [sicca] symptoms. Being that these are causally related in that [appellant] would not have contracted her reactive arthritis had she not been working for the Peace Corps in Africa, it is my opinion that her diagnosis is permanent in nature. I base this opinion on the fact that she has had many years of symptoms and my experience with this condition suggests that if patients develop chronic symptoms lasting more than five years it is unlikely that they would spontaneously remit at this point.

"Finally, it is my opinion that the prevailing issue medically aside from the reactive arthritis has been [appellant's] persistent fatigue. This is again a known manifestation of the reactive arthritis and it is quite disabling for her. This symptom has prevented [appellant] from performing the duties of any employment, since work activities would likely exacerbate the fatigue and achiness."

By decision dated February 10, 2014, OWCP denied appellant's claim for modification. It found that she had failed to submit sufficient medical evidence to establish that she developed conditions of fibromyalgia and reactive arthritis were consequential conditions causally related to her accepted condition of inflammatory polyarthritis. OWCP also found, as it did in prior decisions, that appellant was not entitled to compensation for wage loss from June 1, 2007 to July 13, 2012.

LEGAL PRECEDENT -- ISSUE 1

An employee seeking benefits under FECA[3] has the burden of establishing that 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 injury was sustained 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

[3] *Supra* note 1.

[4] *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[5]

When the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is deemed to arise out of the employment, unless it is the result of an independent intervening cause.[6] The subsequent injury is compensable if it is the direct and natural result of the compensable primary injury. With respect to consequential injuries, the Board has noted that where an injury is sustained as a consequence of an impairment residual to an employment injury, the new or second injury, even if nonemployment related, is deemed because of the chain of causation to arise out of and in the course of employment and is compensable.[7]

Section 10.730 of Title 20 of the Code of Federal Regulations addresses the issue of the conditions of coverage for Peace Corps volunteers injured while serving outside the United States. This regulation interprets section 8142(c)(3) of FECA.[8] Section 10.730 provides that an injury sustained by a Peace Corps volunteer while he or she is located outside the United States shall be presumed to have been sustained in the performance of duty and any illness contracted during such time shall be presumed to be proximately caused by the employment. However, this presumption will be rebutted by evidence that the injury or illness was caused by the claimant's willful misconduct, intent to bring about the injury or death of self or another, or was proximately caused by the intoxication by alcohol or illegal drugs of the injured claimant; or the illness is shown to have preexisted the period of service abroad; or the injury or illness claimed is a manifestation of symptoms of, or consequent to, a preexisting congenital defect or abnormality.[9] If the presumption that an injury or illness was sustained in the performance of duty is rebutted, the claimant has the burden of proving through substantial and probative evidence that such injury or illness was sustained in the performance of duty with the Peace Corps.[10]

ANALYSIS -- ISSUE 1

In this case, OWCP accepted that appellant had sustained the conditions of inflammatory polyarthritis, multiple joints, and Sjögren's disease/dry eye during her service in the Peace Corps in Kenya East Africa.

On appeal, counsel argues that Dr. Irvin's 2010 report and the reports of Dr. Helfgott from 2012 and 2013 established that appellant had also developed a reactive arthritis condition and fibromyalgia as a consequence of her polyarthritis condition. As noted above, under section

[5] *Victor J. Woodhams*, 41 ECAB 345 (1989).

[6] *See Debra L. Dillworth*, 57 ECAB 516 (2006).

[7] *L.S.*, Docket No. 08-1270 (issued July 2, 2009).

[8] 5 U.S.C. §§ 8101-8193, 8142.

[9] 20 C.F.R. § 10.730(a).

[10] *Id.* at § 10.730(b).

10.730 of Title 20 of the Code of Federal Regulations, an injury sustained by a Peace Corps volunteer while he or she is located outside the United States shall be presumed to have been sustained in the performance of duty and any illness contracted during such time shall be presumed to be proximately caused by the employment. Section 10.730 interprets section 8142 of FECA.[11] It therein provides that an injury sustained by a Peace Corps volunteer when she is outside the United States is deemed proximately caused by her employment, unless the injury or illness was caused by the claimant's willful or intentional misconduct; the illness is shown to have preexisted the period of service abroad; or the injury or illness claimed is a manifestation of symptoms of, or consequent to, a preexisting congenital defect or abnormality.

In his August 11, 2010 report, Dr. Irvin related that appellant had a history of having reactive arthritis and fibromyalgia syndrome since 1999. He noted that at the time of the onset of these conditions she was serving in the Peace Corps in Kenya. Dr. Irvin stated that appellant began to experience arthritic discomfort involving parts of her hands and her back. Appellant subsequently developed fibromyalgia syndrome, which was manifested by chronic musculoskeletal discomfort, fatigue, irritable bowel and bladder-type symptoms, multiple tender points, headaches, and sleep disturbance.

Dr. Helfgott stated in his May 24, 2011 and August 1, 2012 reports that he was treating her for inflammatory polyarthralgia and polyarthritis which manifested as a reactive arthritis. He opined that all of these conditions developed as a consequence of infections appellant acquired while working with the Peace Corps in Kenya. Dr. Helfgott asserted in his August 1, 2012 report that appellant's reactive arthritis was caused by her exposure to an unknown pathogen while with the Peace Corps in Africa. He stated that she had a history of an ongoing, active arthritis which involved many joints, including the metacarpal phalangeal joints of both hands, as well as some of the larger joints. Dr. Helfgott advised that appellant had subjective complaints of pain and stiffness which were not uncommon with reactive arthritis. He stated that, once reactive arthritis establishes itself, it is difficult, if not impossible, to fully eliminate the symptoms. These symptoms increased with activities and had been present for a number of years.

In his November 1, 2012 report, Dr. Helfgott reiterated that he was treating appellant for reactive arthritis as a consequence of her exposure to microbiologic pathogens while working in Africa. He based this opinion on the fact that her diagnosis of reactive arthritis was made in that time frame, and advised that her clinical presentation was entirely consistent with a microbial-associated reactive arthritis; this condition was causing pain in virtually all of her joints, except her neck and shoulders. Dr. Helfgott stated that appellant had increasing pain in her right heel which was causing difficulty bearing weight.

In his November 27, 2013 report, Dr. Helfgott advised that the medical literature pertaining to reactive arthritis indicates that patients develop the condition following exposure to a variety of pathogens. He stated that in most cases the pathogens cannot be easily cultured, and that the patients then go on to develop persistent joint pain and swelling. Dr. Helfgott opined that appellant's symptoms were chronic because she required long-term use of an anti-TNF blocker to control her joint pain and inflammation. He also believed that the fatigue and [sicca]

[11] *Supra* note 8 at § 8142.

symptoms that she describes were manifestations of her reactive arthritis. Based on these facts, Dr. Helfgott opined that appellant's federal employment was the proximate cause of her reactive arthritis, secondary fatigue and symptoms. He further opined that she would not have contracted her reactive arthritis had she not been working for the Peace Corps in Africa, noting that she had many years of chronic symptoms which typically become permanent.

The Board finds that the reports from Drs. Irvin and Helfgott are insufficient to establish causation under section 10.730.[12] In the case of *J.D.*,[13] the Board explained that the presumption of causation is not applicable unless the medical evidence contemporaneous with the work incident provides a diagnosis of the condition. In *J.D.*, wherein appellant alleged that he had sustained a spinal injury while in the Peace Corps, the contemporaneous medical evidence only discussed low-grade fever, joint aches, abdominal cramps and diarrhea but not a bruised spine, or any other back condition. Thus, the presumption was inapplicable. Similarly, the presumption under section 8142(c)(3) of FECA is not applicable in this case. While Dr. Laukaitis in his October 25, 1999 report noted a possibility of a reactive arthritis, he concluded that her clinical presentation was consistent with that of an inflammatory polyarthritis.[14] The evidence of record does not establish that appellant's reactive arthritis and fibromyalgia were diagnosed until May 23, 2003 several years after her tour ended.

In the present case, the Board also notes that the presumption is inapplicable if the illness is a manifestation of symptoms of a preexisting congenital defect or abnormality.[15] As noted by Dr. Laukaitis in his October 1999 report, appellant had a family history of osteoarthritis and juvenile rheumatic arthritis. None of the physicians of record ruled out appellant's family history as a cause of the diagnosed arthritic conditions.

For these reasons the Board concludes that the presumption of causal relationship is not applicable. As the presumption of causal relationship does not apply, it is appellant's burden to establish causal relationship.[16]

Drs. Irvin and Helfgott failed to provide a clear explanation of why her claimed reactive arthritis condition and fibromyalgia developed as a consequence of her accepted inflammatory polyarthritis, multiple joints, and Sjögren's disease/dry eye during her service in the Peace Corps in Kenya East Africa. While these physicians concluded that these conditions were causally related to appellant's Peace Corps service, they did not provide a rationalized medical opinion, fully explaining causal relationship. In assessing medical evidence, the weight of such evidence is determined by its reliability, its probative value and its completeness of the physician's

[12] *Supra* note 9.

[13] Docket No. 08-2453 (issued September 17, 2009).

[14] *See S.E.*, Docket No. 08-2214 (issued May 6, 2009) (the Board has generally held that opinions such as the condition is probably related, most likely related or could be related are speculative and diminish the probative value of the medical opinion); *Cecilia M. Corley*, 56 ECAB 662 (2005) (medical opinions which are speculative or equivocal are of diminished probative value).

[15] *Supra* note 11.

[16] *Id*.

knowledge of the facts and medical history, the care of analysis manifested and the medical rationale expressed.[17] Both of these physicians premised their opinion regarding causal relationship on an inaccurate medical history that the conditions of reactive arthritis condition and fibromyalgia were diagnosed during appellant's Peace Corps service. The medical evidence of record does not substantiate such medical history. Therefore, these physician's conclusions, which are based upon an inaccurate medical history, and which lack supporting medical rationale explaining how medically the accepted conditions of inflammatory polyarthritis, multiple joints, and Sjögren's disease/dry eye would have led to reactive arthritis and fibromyalgia, are insufficient to establish appellant's claim.[18]

The Board affirms OWCP's finding that appellant has not submitted medical evidence sufficient to establish that she developed conditions of fibromyalgia and reactive arthritis consequential to her exposure to pathogens while working for the Peace Corps in Africa, which were causally related to her accepted condition of reactive arthritis.

LEGAL PRECEDENT -- ISSUE 2

The term disability as used in FECA means the incapacity because of an employment injury to earn the wages that the employee was receiving at the time of injury.[19] Whether a particular injury caused an employee disability for employment is a medical issue which must be resolved by competent medical evidence.[20] The Board will not require OWCP to pay compensation for disability in the absence of any medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow employees to self-certify their disability and entitlement to compensation.[21]

ANALYSIS -- ISSUE 2

OWCP accepted that appellant had sustained the conditions of inflammatory polyarthritis, multiple joints, and Sjögren's disease/dry eye during her service in the Peace Corps in Kenya East Africa. It asked him to submit medical evidence to support the period of disability claimed. Appellant, however, did not provide a probative, rationalized medical opinion establishing that she was disabled for work due to the accepted conditions for the period June 1, 2007 to July 13, 2012.[22]

The Board will not require OWCP to pay compensation for disability in the absence of medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow an employee to self-certify their disability and

[17] *See Michael S. Mina*, 57 ECAB 379 (2006).

[18] *Id*.

[19] *See Patricia A. Keller*, 45 ECAB 278 (1993); *see also J.G.*, Docket No. 06-2151 (issued February 28, 2006).

[20] *See Paul E. Thams*, 56 ECAB 503 (2005).

[21] *William A. Archer*, 55 ECAB 674 (2004); *Fereidoon Kharabi*, 52 ECAB 291 (2001).

[22] *William C. Thomas*, 45 ECAB 591 (1994).

entitlement to compensation.[23] Appellant has the burden to demonstrate his disability for work based on rationalized medical opinion evidence. The issue of whether a claimant's disability is related to an accepted condition is a medical question which must be established by a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disability is causally related to employment factors and supports that conclusion with sound medical reasoning.[24] There is no such evidence in this case. Appellant did not offer any opinion or supporting medical rationale regarding the date that her disability began or her disability for work for the period claimed. The record reflects that appellant moved to Germany at approximately the same time that the disability was first claimed. Appellant was then initially seen by Dr. Irvin, who submitted a narrative report dated August 11, 2010, but did not comment on her ability to work. She then began treatment with Dr. Helfgott. In his report dated August 14, 2012, Dr. Helfgott explained that appellant was totally disabled due to her reactive arthritis and Sjögren's syndrome, which caused stiffness in her metacarpal phalangeal joints of both hands, as well as in some of her larger joints.

These reports, however, did not sufficiently explain or discuss whether appellant was disabled for the period claimed due to her accepted the conditions of inflammatory polyarthritis, multiple joints, and Sjögren's disease/dry eye conditions.[25]

Appellant has thus failed to submit such evidence which would indicate that her accepted inflammatory polyarthritis, multiple joints, and Sjögren's disease/dry eye conditions caused wage loss for any periods. As she failed to provide a rationalized opinion supporting her disability for work for the period in question, OWCP properly denied her claim for wage-loss compensation.

CONCLUSION

The Board finds that appellant failed to establish that she sustained consequential reactive arthritis condition and fibromyalgia causally related to her accepted inflammatory polyarthritis condition. The Board finds that she has not met her burden to establish disability from June 1, 2007 to July 13, 2012.

[23] *Supra* note 20.

[24] *Howard A. Williams*, 45 ECAB 853 (1994).

[25] *Id*.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' February 2, 2014 decision is affirmed.[26]

Issued: February 22, 2016
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

[26] James A. Haynes, Alternate Judge, participated in the preparation of the decision but was no longer a member of the Board effective November 16, 2015.