

dust during his federal employment. The reverse side of the claim form indicated that he had resigned from federal employment on April 21, 2004.

The Board notes that appellant had previously filed a Form CA-2, dated February 9, 2003, on June 30, 2004, in OWCP file number xxxxxx538.² This claim was for an emotional condition and asthma. On the prior claim form appellant alleged that harassment caused stress and aggravated his asthma, and he referred to a dusty work environment as an additional factor which aggravated his asthma. The issue of a dusty work environment contributing to a respiratory condition was never developed under the prior claim. In a decision dated July 7, 2006, a hearing representative indicated that appellant should file a new claim if he wished to pursue the claim of aggravation of asthma by dust. With respect to the emotional condition claim, OWCP accepted major depressive disorder, single episode, and post-traumatic stress disorder (PTSD).

Appellant submitted medical evidence on May 29, 2015 in support of the current claim. In a form report dated November 21, 2000, Dr. Mark M. Millar, a Board-certified allergist, reported that appellant had a chronic asthma condition and could have periodic exacerbations. He indicated that appellant could perform regular work, but should avoid fumes, dust, and airborne particles. In a December 22, 2000 report, Dr. Millar reported that appellant could have one to four asthma exacerbations per year.

Dr. Chester C. Maternowski, a Board-certified allergist, noted on December 28, 2000 that appellant was under treatment for exacerbation of his asthma and sinusitis, and could return to work January 15, 2001. By report dated January 3, 2001, he wrote that appellant was stressed and this was making his asthma condition worse. Dr. Maternowski also wrote in a May 3, 2003 form report that appellant could work full schedule, but could have an exacerbation of asthma at times requiring treatment.

In a March 11, 2004 report, Dr. Maternowski reported that appellant had been treated for asthma since he was an infant, but had returned for medical treatment in 1998 when exacerbation of asthma gave him more significant medical problems. He related that, during the year 2000, appellant reported continuing harassment at work that caused occasional flare ups of asthma.

By letter dated June 23, 2015, OWCP requested that appellant submit additional evidence. It indicated that it was not clear that he had provided timely notification of injury, that he actually experienced the alleged employment factors, or that a medical condition was caused by exposure to dust. OWCP requested that appellant submit additional evidence in support of his allegation within 30 days.

On July 17, 2015 appellant submitted a July 14, 2015 letter noting that he had filed a prior claim with respect to asthma. He indicated that he had worked in the automation department and there was dust visible on the equipment and surfaces near the barcode sorting machines. Appellant alleged that the dust was blown throughout the area because fans were used to cool the sorting machines, and he would inhale the dust. He wrote that, from November to

² In the March 1, 2016 decision, the hearing representative indicated that the current claim and the claim filed on 2004 should be administratively combined.

December 2002, he was given a light-duty position in a different work environment, but then was assigned back to his old position. Appellant asserted that he began having asthmatic symptoms as early as March 2000.

By decision dated September 23, 2105, OWCP denied the claim for compensation. It found that appellant had timely filed the claim and that he was exposed to dust, but that the medical evidence failed to establish a diagnosed condition causally related to dust exposure at work.

On October 5, 2015 appellant requested a review of the written record by an OWCP hearing representative. He submitted a January 9, 2001 report from Dr. Lawrence Probes, a Board-certified psychiatrist. Dr. Probes provided a history that appellant reported chronic stress at work from September 2000 with respect to supervisors and coworkers. The diagnoses included acute PTSD, major depressive disorder, single episode, and stress-related response affecting asthma. Appellant also submitted additional reports from Dr. Probes through July 18, 2003. In the July 18, 2003 report, Dr. Probes reported that appellant had been doing well emotionally, with good control of his asthma, but in December 2002 he had been transferred back to his old position. He indicated that appellant had difficulties with the supervisor in the past, and he recommended transfer to an annex site. By report dated September 5, 2003, Dr. Maternowski related that appellant had a mild exacerbation of asthma on September 4, 2003.

By decision dated March 1, 2016, the hearing representative affirmed the September 23, 2015 decision. She found that the medical evidence of record was insufficient to establish the claim.

LEGAL PRECEDENT

A claimant seeking benefits under FECA has the burden of establishing the essential elements of his or her claim by the weight of the reliable, probative and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.³

To establish that an injury was sustained in the performance of duty, a claimant must submit: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁴

Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁵ A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment

³ 20 C.F.R. § 10.115(e), (f) (2005); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

⁴ *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

⁵ See *Robert G. Morris*, 48 ECAB 238 (1996).

factors must be based on a complete factual and medical background of the claimant.⁶ Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors.⁷

ANALYSIS

In the present case, appellant had filed a prior claim on June 30, 2004 with respect to asthma, alleging both employment-related stress, and a dusty work environment as aggravating factors. The initial claim was not developed on the issue of asthma causally related to dust exposure at work. Appellant is also pursuing a claim of asthma as a consequential injury from accepted emotional conditions, in the prior claim, OWCP file number xxxxxx538, and that issue is not before the Board on this appeal.

OWCP has accepted that appellant was exposed to dust in his federal employment prior to his retirement in April 2004.

The Board finds that the medical evidence of record is insufficient to meet appellant's burden of proof. Dr. Millar briefly referred to recommending that appellant avoid dust and fumes in his November 21, 2000 report, without further detail. Dr. Maternowski's reports refer to appellant having occasional exacerbations of asthma, without discussing dust exposure. Dr. Probes discussed appellant's history in terms of emotional stress at work, not dust exposure.

There is no medical report with a complete and accurate background, and a rationalized opinion on causal relationship between asthma and dust exposure in federal employment.⁸ A medical conclusion regarding causal relationship cannot be based on the assumption that appellant's federal employment caused exposure. Medical reports which do not appear based on a proper history of occupational exposure are insufficient to establish a causal relationship between his federal employment duties and his diagnosed condition of asthma.⁹

Furthermore, with respect to aggravation, a medical opinion must differentiate between the effects of the work-related injury or disease and the preexisting condition.¹⁰ The Board has held that need for a medical rationale on causal relationship is particularly important when the claimant has a history of asthma and is claiming an aggravation of the asthma condition.¹¹ In the present case, none of the physicians of record provided a complete factual and medical history, with a rationalized opinion, explaining how dust exposure in federal employment affected

⁶ *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁷ *Id.*

⁸ *See R.G.*, Docket No. 10-1682 (issued March 1, 2011).

⁹ *Id.*

¹⁰ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3(e) (January 2013).

¹¹ *See N.O.*, Docket No. 15-1110 (issued September 10, 2015).

appellant's preexisting respiratory condition. Thus, appellant has not met his burden of proof to establish the claim for compensation.

On appeal, appellant indicates that he believes that the medical evidence is sufficient to establish that dust exposure aggravated his asthma condition. For the reasons noted above, the Board finds that the medical evidence of record is of diminished probative value.

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 established an aggravation of asthma causally related to dust exposure in his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated March 1, 2016 is affirmed.

Issued: November 18, 2016
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board