

FACTUAL HISTORY

On March 6, 2014 appellant, then a 63-year-old radiology supervisor, filed an occupational disease claim (Form CA-2) alleging that on January 30, 2014 he first became aware of his bad chest pain, dizziness, stomach problems, and loss of sleep. He alleged that on March 3, 2014 he first realized that his conditions were due to very high stress at work. Appellant stopped work on March 10, 2014.

In a March 5, 2014 narrative statement, appellant stated that he began to experience chest pain on about January 30, 2014 and that his condition increased daily by mid-February 2014 during his regular work hours. He contended that, during his first week of March 14, 2014, as a supervisor, a clinic administrator instructed him to suspend an employee. She also reminded appellant on several occasions about his probation status as a career conditional employee. Appellant contended that he was expected to meet reportable deadlines and to learn a difficult budget and contract policy. At that time, he noticed a link between his job stress and episodes of chest pain, dizziness, shortness of breath, weakness in his knees, indigestion, vomiting, headache, shaking, and, high blood pressure. Appellant also contended that the radiology department had been without a supervisor for two years and that as such, it had low employee morale and was a “mess.” For these reasons, he alleged that he experienced an extremely high level of stress as a supervisor in the radiology department.

In discharge summary instructions dated March 7, 2014 from Sanford Health, Dr. Rawa Sarji, Board-certified in internal medicine and cardiovascular disease, indicated that appellant was admitted to the hospital on that same day for evaluation and released on March 8, 2014. She advised that he could resume his home diet and normal activity as tolerated and provided a discharge medication list.

By letter dated March 18, 2014, OWCP advised appellant that the evidence submitted was insufficient to establish his claim. It requested that he submit factual and medical evidence to establish his claim. OWCP also requested that the employing establishment respond to appellant’s allegations and submit medical evidence, if he had been treated at its medical facility.

Hospital records from Coteau des Prairies Hospital and Clinic included a report and an emergency note dated March 7, 2014 from Dr. Judy C. Beumer, a Board-certified family practitioner, who provided appellant’s history which included, among other things, episodes of angina that began in January 2014. She attributed his symptoms to work-related stress. Dr. Beumer reported examination findings and diagnosed, among other things, anxiety, stress, hypertension, elevated troponin-nonSTEMI, high cholesterol, family history of heart problems, and remote smoking history.

In reports dated March 7, 2014, Dr. Sarah Malik, an internist, and Dr. Sarji provided appellant’s history which included experiencing chest pain during the third week of January 2014 he experienced chest pain while working as a supervisor at the employing establishment and his medical, social, and family background. Appellant told the physicians that in late February 2014 that he had a high level of stress at work and felt overwhelmed. Examination findings were noted. Appellant was assessed as presenting with chest pain that had been going on for the last two months, left-sided substernal radiating to the left armpit with jaw

tightness, diaphoresis, and nausea precipitated by exertion and relieved with rest. He had no prior history of coronary artery disease (CAD) or cardiac workup and no aspirin use at home. Appellant had a family history of CAD, as his father died at 47 years old due to myocardial infarction. Dr. Sarji advised that his cardiac risk factors included his age, hypertension, hyperlipidemia, family history of heart disease, and obesity. Appellant's TIMI score was 3 for CAD risk factors. He had severe anginal episodes, positive cardiac markers that included a 13 percent risk during 14 days of his hospital stay, and acute coronary syndromes that required urgent revascularization. Appellant's first troponin was elevated at 0.14. An electrocardiogram (EKG) did not reveal any ischemic changes.

In another report dated March 7, 2014, Dr. Sarji noted that she personally interviewed and examined appellant. She agreed with Dr. Malik's note. Dr. Sarji advised that appellant had experienced progressively worsening chest pain over the prior one to two months. Appellant was under a lot of stress at work. An EKG was unremarkable, but troponin was positive at 0.24.

In a March 8, 2014 discharge summary report, Dr. Malik noted appellant's medical treatment and provided examination findings along with laboratory and diagnostic test results. Appellant's primary discharge diagnosis was non-ST segment elevation myocardial infarction (NSTEMI) and status post drug-eluting stents (DES) in right coronary artery (RCA).

In a March 8, 2014 discharge summaries report, Dr. Sarji noted that she had personally interviewed and examined appellant. She reviewed and agreed with Dr. Malik's note. Appellant's discharge summary was NSTEMI, CAD status post percutaneous coronary intervention (PCI) of the proximal RCA with a 3.0 x 30 millimeters (mm) resolute DES, and acute on chronic kidney disease.

In a March 7, 2014 progress note, Dr. Thomas A. Haldis, an internist with a subspecialty in cardiovascular disease, performed a left heart catheterization, stent to RCA with a 3.0 x 30 mm resolute DES to treat appellant's NSTEMI. Appellant's postoperative condition was stable.

In an after visit summary and work status report dated March 20, 2014, Dr. Pushpanjalie D. Wijeratne, a Board-certified family practitioner, provided examination findings and diagnosed essential hypertension, hyperlipidemia (high blood fats), CAD with the presence of a stent, angina pectoris (chest pain), and anxiety disorder. Appellant was placed off work through April, 19, 2014. Dr. Wijeratne noted that extended time off for more than one month would be decided by the cardiology department after its evaluation of appellant.

In a March 31, 2014 letter, the employing establishment disagreed with appellant's statements and allegations. On March 7, 2014 appellant informed his supervisor about his chest pains due to stress. His supervisor advised him to immediately go to the emergency department for evaluation, but he refused to do so. Instead, appellant returned to his office. Several hours later he left the facility without telling his supervisor. Prior to March 7, 2014, appellant never reported any stress or health-related concerns that he was having with his supervisor. The employing establishment stated that there were no aspects of his job perceived as stressful. The only established deadlines were for submitting monthly reports to the clinical director. Appellant's only intense assignment was to address a disciplinary/adverse action handled by a prior supervisor. The employing establishment stated that he was allowed reasonable time to

address this issue. Appellant did not request any accommodations and no stress or other health-related issues were discussed. He did not request an extension of deadlines. Upon appellant's hiring, the radiology department was fully staffed and he was not required to cover any evening or weekend duties. He was temporarily relieved of his radiology duties until the stated disciplinary/adverse action was resolved. After resolving this issue, appellant refused to follow through with learning departmental procedures and, thus, was unable to assist with radiology duties. The employing establishment stated that his performance did not meet the expectations required of a supervisor and that he was also advised about his conduct issues. As a radiologist, appellant was required to spend at least 50 percent of his time performing radiology duties. However, he failed to perform the required duties and refused to learn processes to accomplish his tasks. Appellant was counseled by his supervisor on multiple occasions.

The employing establishment submitted a description of appellant's supervisory diagnostic radiologic technologist position.

In an April 25, 2014 decision, OWCP denied appellant's claim. It found that he had established compensable factors of employment, that he was expected to meet report deadlines and he had to learn a very difficult budget and contract policy. However, the medical evidence of record was insufficient to establish that appellant had a medical condition caused by the accepted employment factors.

On May 19, 2014 appellant requested a review of the written record by an OWCP hearing representative.

In a report dated May 6, 2014, Dr. Bahram Khadivi, an internist with a subspecialty in cardiovascular disease, provided appellant's history and complaints of mild dyspnea on a treadmill and slight chest pain like he experienced on March 20, 2014 with NSTEMI. Examination findings were noted and appellant was assessed as having CAD with the presence of a stent, hyperlipidemia (high blood fats), essential hypertension, dyspnea, and chest pain.

In a November 6, 2014 letter, the employing establishment stated that appellant had no intentions of returning to his position as he moved to San Diego, California. He resigned from his position, effective May 14, 2014.

By decision dated December 17, 2014, an OWCP hearing representative affirmed the April 25, 2014 decision. She found that appellant had failed to submit rationalized medical evidence to establish that his diagnosed conditions were due to the accepted employment factors.

LEGAL PRECEDENT

A claimant has the burden of establishing by the weight of the reliable, probative, and substantial evidence that the condition for which he or she claims compensation was caused or adversely affected by factors of his or her federal employment.² To establish that he or she sustained an emotional condition in the performance of duty, a claimant must submit: (1) factual evidence identifying employment factors or incidents alleged to have caused or contributed to an emotional condition; (2) medical evidence establishing an emotional or psychiatric disorder;

² *Pamela R. Rice*, 38 ECAB 838 (1987).

and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to the emotional condition.³

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. There are situations where an injury or an illness has some connection with the employment, but nevertheless does not come within the concept or coverage of workers' compensation. Where the disability results from an employee's emotional reaction to his or her regular or specially assigned duties or to a requirement imposed by the employment, the disability comes within the coverage of FECA.⁴ On the other hand, the disability is not covered where it results from such factors as an employee's fear of a reduction-in-force or his or her frustration from not being permitted to work in a particular environment or to hold a particular position.⁵

Administrative and personnel matters, although generally related to the employee's employment, are administrative functions of the employing establishment rather than the regular or specially assigned work duties of the employee and are not covered under FECA.⁶ However, the Board has held that where the evidence establishes error or abuse on the part of the employing establishment in what would otherwise be an administrative matter, coverage will be afforded.⁷ In determining whether the employing establishment has erred or acted abusively, the Board will examine the factual evidence of record to determine whether the employing establishment acted reasonably.⁸

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors in causing a condition or disability, OWCP, as part of its adjudicatory function, must make findings of fact regarding which working conditions are deemed compensable factors of employment and are to be considered by a physician when providing an opinion on causal relationship and which working conditions are not deemed factors of employment and may not be considered.⁹ If a claimant does implicate a factor of employment, OWCP should then determine whether the evidence of record substantiates that factor. When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, OWCP must base its decision on an analysis of the medical evidence.¹⁰

³ See *Donna Faye Cardwell*, 41 ECAB 730 (1990).

⁴ 5 U.S.C. §§ 8101-8193; *Trudy A. Scott*, 52 ECAB 309 (2001); *Lillian Cutler*, 28 ECAB 125 (1976).

⁵ *Gregorio E. Conde*, 52 ECAB 410 (2001).

⁶ See *Matilda R. Wyatt*, 52 ECAB 421 (2001); *Thomas D. McEuen*, 41 ECAB 387 (1990); *reaff'd on recon.*, 42 ECAB 556 (1991).

⁷ See *William H. Fortner*, 49 ECAB 324 (1998).

⁸ *Ruth S. Johnson*, 46 ECAB 237 (1994).

⁹ *Dennis J. Balogh*, 52 ECAB 232 (2001).

¹⁰ *Id.*

Causal relationship is a medical issue, and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.¹¹ The opinion of the physician must be based on a complete factual and medical background of the claimant¹² and must be one of reasonable medical certainty¹³ explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.¹⁴

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish an occupational disease causally related to factors of his federal employment.

OWCP accepted as compensable factors of employment that appellant was expected to meet report deadlines and to learn a very difficult budget and contract policy. The Board has held that emotional reactions to situations in which an employee is trying to meet his or her position requirements are compensable.¹⁵ Further, the employing establishment confirmed that appellant did in fact have set deadlines for submitting monthly reports to the clinical director. Consequently, appellant has established as compensable factors of employment an expectation to meet report deadlines and to learn a very difficult budget and contract policy during the performance of his regularly assigned work duties.

Appellant generally asserted that he worked in a stressful environment due to the fact that the radiology department was “a mess” and had low morale because it was without a supervisor for nearly two years. This allegation is insufficient to substantiate any work factor as factual. In order to establish his claim, appellant must submit factual evidence identifying specific employment factors or incidents as having caused or contributed to his condition.¹⁶ His allegation is nonspecific and there are no statements by any coworkers to substantiate his stressful work environment. Thus, the Board finds that appellant has not established an additional compensable employment factor with regard to this allegation.

Appellant’s remaining allegations, that a clinic administrator instructed him to suspend an employee and harassed him on several occasions about being on probation as a career condition employee, pertain to administrative actions. As stated, an administrative or personnel matter will be considered to be an employment factor only where the evidence discloses error or abuse on the part of the employing establishment.¹⁷ The method, by which managers perform their supervisory duties generally fall outside the coverage of FECA absent evidence of error or

¹¹ *John J. Montoya*, 54 ECAB 306 (2003).

¹² *Tomas Martinez*, 54 ECAB 623 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

¹³ *Supra* note 11.

¹⁴ *Judy C. Rogers*, 54 ECAB 693 (2003).

¹⁵ *Trudy A. Scott*, 52 ECAB 309 (2001).

¹⁶ *Leslie C. Moore*, 52 ECAB 132 (2000).

¹⁷ *See supra* notes 6 and 7.

abuse.¹⁸ The Board finds that appellant's allegations regarding the assignment of work¹⁹ and his employment status pertain to administrative functions. The Board also finds that the employing establishment's counseling sessions also pertain to administrative functions.²⁰ Appellant has not submitted evidence showing that the employing establishment committed error or abuse with regard to these matters. While the employing establishment stated that his only intense assignment was to address the disciplinary/adverse action against an employee that was handled by a prior supervisor, it provided him with a reasonable amount of time to handle this situation.

Regarding appellant's work performance, the employing establishment explained that he failed to spend at least 50 percent of his time performing radiology duties, as required. It stated that he was not required to cover any evening or weekend duties as his department was fully staffed. The employing establishment further stated that appellant refused to learn the processes necessary to accomplish his tasks. It related that he was counseled on multiple times by his supervisor for refusing to assist his staff and to participate in monthly staff meetings, taking extended lunch breaks, and leaving his tour of duty early. The employing establishment's statements establish that it did not act unreasonably or err in handling the above-stated administrative matters. The Board finds therefore that appellant has not established an additional compensable employment factor with regard to these allegations.

The Board finds that the medical evidence of record must be analyzed to address the two compensable factors of employment, namely that he was expected to meet reportable deadlines and that he had to learn a very difficult budget and contract policy.²¹

Dr. Beumer's March 7, 2014 reports found that appellant had, among other things, anxiety, stress, hypertension, elevated troponin-nonstemi, and high cholesterol based on examination findings and laboratory test results. Appellant told Dr. Beumer that his symptoms were attributable to work-related stress. His belief that his stress condition was caused or aggravated by an employment factor is insufficient to establish causal relationship.²² Dr. Beumer did not offer her own opinion regarding the cause of appellant's diagnosed conditions. Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value.²³ Therefore, the Board finds that Dr. Beumer's reports are insufficient to meet appellant's burden of proof.

The remaining reports and progress notes from Drs. Sarji, Malik, Haldis, Wijeratne, and Khadivi, and the laboratory reports are similarly insufficient to establish causal relationship. These reports provided diagnoses based on their examinations and addressed appellant's medical treatment and work capacity, but none of the physicians provided an opinion addressing whether

¹⁸ See *Janet I. Jones*, 47 ECAB 345, 347 (1996); *Jimmy Gilbreath*, 44 ECAB 555, 558 (1993).

¹⁹ *C.E.*, Docket No. 13-1860 (issued January 17, 2014).

²⁰ *Andrew Wolfgang-Masters*, 56 ECAB 411 (2005).

²¹ See *Robert Breeden*, 57 ECAB 622 (2006).

²² See *Gary J. Watling*, *supra* note 12.

²³ See *K.W.*, 59 ECAB 271 (2007).

his diagnosed conditions, medical treatment, and disability for work were caused by the accepted compensable employment factors.²⁴ While Dr. Sarji, in her March 7, 2014 report, noted his worsening chest pain and stated that he was under a lot of stress at work, he did not specifically opine whether his chest condition was causally related to the established employment factors. The Board finds that the reports from Drs. Sarji, Malik, Haldis, Wijeratne, and Khadivi, and the laboratory reports are insufficient to establish appellant's claim.

The Board therefore finds that appellant has not submitted sufficient medical evidence to establish an occupational disease causally related to the compensable work factors.

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 an occupational disease causally related to factors of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the December 17, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 27, 2016
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

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

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

²⁴ *Id.*