



## ISSUE

The issue is whether appellant met his burden of proof to establish that he sustained high blood pressure resulting in an aortic aneurysm causally related to factors of his federal employment.

## FACTUAL HISTORY

On July 26, 2010 appellant, then a 57-year-old general engineer, filed an occupational disease claim (Form CA-2) alleging that work stress caused chronically elevated blood pressure and an aortic aneurysm.

OWCP accepted as compensable employment factors that the employing establishment failed to promote appellant in March 2008 as a result of age discrimination and retaliated against him for filing an EEO complaint when it denied his request to attend a training seminar in October 2008, made him sign an acknowledgement that his position required drug testing, rated his performance October 2008 as “fully successful.” It further found as compensable factors that the employing establishment failed to address his challenge of his performance rating as of November 17, 2008, denied his request for a training course in December 2008, took away his duties as a project manager in April 2009, upheld his 2008 performance rating, and erroneously indicated that it had discussed the outcome of his performance rating challenge.

On August 17, 2010 Dr. David A. Dalessandro, a Board-certified internist, diagnosed a “thoracic aortic aneurysm of the ascending thoracic aorta.” He noted that appellant had a family history of early coronary artery disease. Dr. Dalessandro advised that latent hypertension may have caused the thoracic aortic aneurysm. He opined that work stress could cause “increased risk for either development of a thoracic aortic aneurysm and/or aortic dissection and possibly aortic rupture in a person with a preexisting thoracic aortic aneurysm due to the associated increase in heart rate and blood pressure....”

In a report dated August 23, 2010, Dr. Jihad Charabati, Board-certified in family medicine, noted that appellant was experiencing work stress. He diagnosed depression, a generalized anxiety disorder, and insomnia.

In a report dated February 18, 2011, Dr. Dalessandro related that repeated exposure to stress may have caused variations in appellant’s blood pressure causing his aneurysm to increase in size more quickly.

In a report dated November 8, 2011, received by OWCP on November 23, 2011, Dr. Dalessandro related that appellant “demonstrated a mild increase in the diameter of his thoracic aortic aneurysm, both at the level of the aortic root and in the ascending aorta, which could certainly be attributable to his continued stressful work environment with result in fluctuations in his blood pressure and heart rate.”

On July 24, 2012 OWCP referred appellant to Dr. Basil M. Rudusky, a Board-certified internist, for a second opinion examination. In a report dated August 2, 2012, Dr. Rudusky opined that his thoracic aortic aneurysm was unrelated to work stress. He further found no

relationship between appellant's employment and the diagnosed condition of hypertension, hyperlipidemia, and arteriosclerotic cardiovascular disease. Dr. Rudusky advised that appellant should avoid excessive physical exertion.

By decision dated December 19, 2012, OWCP denied appellant's claim after finding that the weight of the medical evidence, as represented by Dr. Rudusky, established that he had not sustained an aortic aneurysm due to the accepted compensable employment factors.

On January 17, 2013 appellant requested a telephone hearing. In a statement dated January 31, 2013, he noted that the medical evidence did not show evidence of an aneurysm until 2009. Appellant asserted that Dr. Rudusky had not adequately addressed the medical evidence or provide rationale for his opinion.

The telephone hearing was held on May 7, 2013. By decision dated July 23, 2013, an OWCP hearing representative set aside the December 19, 2012 decision. She found that a conflict existed between Dr. Dalessandro and Dr. Rudusky regarding the cause of appellant's aortic aneurysm and its relationship to his employment.

On November 7, 2013 OWCP referred appellant to Dr. Manoj Khandelwal, a Board-certified internist, for an impartial medical examination. In a report dated November 22, 2013, Dr. Khandelwal reviewed the medical evidence, including a 2013 diagnostic study. He noted that appellant had a history of hypertension diagnosed in 2005, hyperlipidemia diagnosed in 2006, and cigar smoking beginning 2008. Dr. Khandelwal related, "In summary, [appellant] has a positive family history of atherosclerosis, history of longstanding hypertension, history of longstanding hyperlipidemia, [and] cigar smoking who suffers from asymptomatic thoracic aneurysm which was incidentally discovered on routine chest x-ray surveillance for possible asbestosis." He noted that thoracic aortic aneurysms usually occurred in males between 60 and 70 with hypertension and "rarely cause issues for the majority of patients." Dr. Khandelwal further indicated that the condition occurred more frequently in obese, sedentary patients, African Americans, and those who were depressed or who had a significant sodium intake. He opined:

"There is no conclusive evidence that hypertension is caused by stress in or out of the workplace. Hypertension is usually idiopathic and can be familial with no evidence that external stresses contribute to its presence or severity. There is no scientific basis for the very popularly held belief that stress is related to hypertension. The data regarding stress/anxiety and hypertension is mixed, inconclusive and in fact has little credibility. There is also no evidence in the literature that external stresses lead to the formation of thoracic aortic aneurysms.

"Thus, there is no evidence that any factors of employment contributed, aggravated, precipitated or accelerated the development of hypertension, or to the development subsequently of an aortic aneurysm, or the development of the aortic aneurysm directly. Also, the diagnosis of hypertension predated the alleged workplace issues. [Appellant] is entirely asymptomatic and has no 'injury.'"

Dr. Khandelwal found that appellant's hypertension was mild and that he had "all the typical risk factors for aneurysm development and underlying factors and that predispose him to such a disease, none of which is related to his workplace." He advised that a search in a computer research database did not reveal references linking stress and a thoracic aortic aneurysm. In a May 15, 2014 work restriction evaluation, Dr. Khandelwal opined that appellant could perform his usual employment duties.

By decision dated September 19, 2014, OWCP denied appellant's claim as the weight of the medical evidence, as represented by the opinion of the impartial medical examiner, established that he did not sustain a medical condition causally related to compensable work factors.<sup>3</sup>

On September 12, 2014 appellant requested a telephone hearing. At the telephone hearing, held on April 9, 2015, he contended that OWCP referral physicians failed to consider the compensable work factors or discuss the literature linking stress at work with hypertension and aneurysms.<sup>4</sup> Appellant related that his physician diagnosed hypertension in 2005 and put him on medication, which controlled his hypertension. He indicated that medical reports and x-rays from his screenings for asbestos were normal until 2008, when his employing establishment created a hostile work environment. Appellant maintained that stress from 2008 until 2011 aggravated his aneurysm. He cited the case of *Robert Sisolak*,<sup>5</sup> in support of his assertion that Dr. Khandelwal had not adequately considered the relationship between stress, hypertension, and aneurysms.

On April 30, 2015 appellant asserted that he did not have any preexisting heart or vascular condition before the employing establishment created a hostile work environment.<sup>6</sup> He also noted that his aneurysm had increased in size during the time that the employing establishment retaliated against him for filing his EEO complaint. Appellant argued that Dr. Khandelwal used an online research site to determine that stress was unrelated to the development of aneurysms. He noted that the Board found in *Sisolak*<sup>7</sup> that the claimant had submitted medical literature regarding the relationship between stress and ruptured aneurysms. Appellant indicated that on December 22, 2010 an OWCP medical examiner found a relationship between hypertension and aneurysm.<sup>8</sup>

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<sup>3</sup> OWCP issued decisions on August 25 and 26, 2014 addressed to appellant, but referencing in part another claimant. It issued an amended decision on September 19, 2014.

<sup>4</sup> Appellant also questioned whether, when OWCP confused his file with another claimant's a copy of his health information may have gone to another agency.

<sup>5</sup> Docket No. 00-0952 (issued April 20, 2001).

<sup>6</sup> Appellant also indicated that he had not received the September 19, 2014 amended decision.

<sup>7</sup> See *supra* note 6.

<sup>8</sup> On December 22, 2010 OWCP requested that the medical adviser discuss whether stress at work caused his thoracic aortic aneurysm. In a response dated January 1, 2011, the medical adviser found that there was "no direct causal relationship between the stress and thoracic aortic aneurysm" but that it instead resulted from hypertension and a preexisting cardiac condition.

By decision dated June 25, 2015, the hearing representative affirmed the September 19, 2014 decision.

On appeal, appellant contends that the hearing representative did not consider whether work factors aggravated his aneurysm. He also alleges that Dr. Khandelwal failed to discuss the accepted work factors and asserts that his opinion is not entitled to more weight than Dr. Dalessandro's. Appellant notes that he did not have many of the risk factors that had been identified by Dr. Khandelwal as causing an aneurysm, including age, obesity, family history, alcohol abuse, and ethnicity. He continues to maintain that work aggravated his underlying condition. Appellant contends that in *Judy A. Lemmons*,<sup>9</sup> the Board found that an impartial medical examiner must reference identified work factors. He asserts that he did not have any heart or vascular condition before the hostile work environment began in 2008. Appellant also references his April 30, 2015 letter to the hearing representative.

### **LEGAL PRECEDENT**

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.<sup>10</sup> 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.<sup>11</sup>

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.<sup>12</sup> 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.<sup>13</sup>

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<sup>9</sup> Docket No. 97-0627 (issued December 14, 1998).

<sup>10</sup> *Supra* note 2; *Trudy A. Scott*, 52 ECAB 309 (2001); *Lillian Cutler*, 28 ECAB 125 (1976).

<sup>11</sup> *Gregorio E. Conde*, 52 ECAB 410 (2001).

<sup>12</sup> *Dennis J. Balogh*, 52 ECAB 232 (2001).

<sup>13</sup> *Id.*

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.<sup>14</sup> The opinion of the physician must be based on a complete factual and medical background of the claimant,<sup>15</sup> and be one of reasonable medical certainty<sup>16</sup> explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>17</sup>

Section 8123(a) provides that, if there is disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination.<sup>18</sup> The implementing regulations states that, if a conflict exists between the medical opinion of the employee's physician and the medical opinion of either a second opinion physician or an OWCP medical adviser, OWCP shall appoint a third physician to make an examination. This is called a referee examination and OWCP will select a physician who is qualified in the appropriate specialty and who has no prior connection with the case.<sup>19</sup>

When there exist opposing medical reports of virtually equal weight and rationale and the case is referred to an impartial medical specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, must be given special weight.<sup>20</sup>

### ANALYSIS

Appellant alleged that he sustained a thoracic aortic aneurysm due to chronic high blood pressure as a result of stress at work. OWCP accepted as compensable work factors that the employing establishment failed to promote him in March 2008 as a result of age discrimination and retaliated against him for filing an EEO complaint when it denied his request to attend a training seminar in October 2008, made him sign an acknowledgement that his position required drug testing, and rated his performance October 2008 as "fully successful." OWCP further found as compensable work factors that the employing establishment failed to address his challenge of his performance rating as of November 17, 2008, denied his request for a training course in December 2008, took away his duties as a project manager in April 2009, upheld his 2008 performance rating, and erroneously indicated that it had discussed the outcome of his challenge to the performance rating.

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<sup>14</sup> *John J. Montoya*, 54 ECAB 306 (2003).

<sup>15</sup> *Tomas Martinez*, 54 ECAB 623 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

<sup>16</sup> *Supra* note 14.

<sup>17</sup> *Judy C. Rogers*, 54 ECAB 693 (2003).

<sup>18</sup> 5 U.S.C. § 8123(a).

<sup>19</sup> 20 C.F.R. § 10.321.

<sup>20</sup> *Barry Neutuch*, 54 ECAB 313 (2003); *David W. Pickett*, 54 ECAB 272 (2002).

OWCP determined that a conflict existed between Dr. Dalessandro, appellant's treating physician, and Dr. Rudusky, an OWCP referral physician, regarding whether appellant's high blood pressure and thoracic aneurysm were causally related to the compensable work factors. It referred him, together with a statement of accepted facts describing the compensable work factors, to Dr. Khandelwal, a Board-certified internist, for an impartial medical examination.

Where there exist opposing medical reports of virtually equal weight and rationale and the case is referred to an impartial medical specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, must be given special weight.<sup>21</sup>

The Board finds that Dr. Khandelwal's opinion represents the weight of the evidence and establishes that appellant's thoracic aortic aneurysm was not causally related to the accepted employment factors. In a report dated November 22, 2013, Dr. Khandelwal reviewed the medical evidence and discussed appellant's family history of atherosclerosis, hypertension, hyperlipidemia, and cigar smoking. He concluded that work factors did not cause or aggravate appellant's hypertension or development of his aortic aneurysm. Dr. Khandelwal provided rationale for his opinion by explaining that appellant had the risk factors of hypertension, hyperlipidemia, and cigar smoking and that no reliable studies established a relationship between stress and hypertension or stress and a thoracic aortic aneurysm. He accurately summarized the relevant medical evidence, provided detailed findings on examination, and reached conclusions about appellant's condition, which comported with his findings.<sup>22</sup> As Dr. Khandelwal's report is detailed, well rationalized, and based on a proper factual background, his opinion is entitled to the special weight accorded an impartial medical examiner.<sup>23</sup> His report represents the weight of the evidence and establishes that appellant's thoracic aortic aneurysm was unrelated to the compensable work factors.

On appeal, appellant contends that OWCP failed to address whether work factors aggravated his aneurysm. Dr. Khandelwal, however, found that his employment did not aggravate or accelerate the development of his aneurysm.

Appellant further contends that Dr. Khandelwal did not discuss the accepted work factors as required by *Lemmons*.<sup>24</sup> In *Lemmons*, the Board determined that OWCP had not met its burden of proof to rescind acceptance of left thoracic outlet syndrome. The Board found that OWCP had not provided the impartial medical examiner with a complete statement of accepted facts. The Board further determined that the physician had not relied on an accurate employment history. In the current case, however, OWCP provided Dr. Khandelwal with an accurate statement of accepted facts and an accurate work history.

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<sup>21</sup> *Id.*

<sup>22</sup> *Manuel Gill*, 52 ECAB 282 (2001).

<sup>23</sup> *See Katheryn E. Demarsh*, 56 ECAB 677 (2005).

<sup>24</sup> Docket No. 97-0627 (issued December 14, 1998).

Appellant maintains that he does not have a majority of the risk factors identified by Dr. Khandelwal as causing an aneurysm, including age, obesity, family history, alcohol abuse, and ethnicity. Dr. Khandelwal, however, discussed all risk factors and specifically identified the risk factors that appellant exhibited, including hypertension and hyperlipidemia, and concluded that work stress was unrelated to the development of his condition.

Appellant asserts that he did not have any heart or vascular condition before the hostile work environment began in 2008. His lay opinion, however, is not relevant to the medical issue in this case. Further, the Board has held that the mere fact that a disease or condition manifests itself during a period of employment does not raise an inference of causal relationship between the condition and the employment.<sup>25</sup>

Appellant also referenced on appeal his statement to the hearing representative, in which he noted that the Board found in *Sisolak* that the claimant had submitted medical evidence regarding a relationship between a ruptured cerebral aneurysm and stress, which was not considered by a physician. In *Sisolak* the impartial medical examiner indicated that there was no literature supporting a relationship between stress and a ruptured cerebral aneurysm. The claimant submitted medical literature discussing the relationship between a ruptured aneurysm and stress. The Board found that the statement by the impartial medical examiner that there was no literature supporting a causal relationship showed a lack of expertise and remanded the case. Dr. Khandelwal, however, did not deny the existence of any literature showing a causal relationship between stress and hypertension, but found, based on his medical expertise, that it was inconclusive and lacked credibility. He also determined that the medical literature did not link the development of a thoracic aortic aneurysm and stress, which is a different issue than that raised in *Sisolak* regarding the relationship between stress and a ruptured cerebral aneurysm.

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 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 he sustained high blood pressure and an aortic aneurysm causally related to factors of his federal employment.

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<sup>25</sup> *D.E.*, 58 ECAB 448 (2007); *Roy L. Humphrey*, 57 ECAB 238 (2005).

**ORDER**

**IT IS HEREBY ORDERED THAT** the June 25, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 7, 2016  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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