

FACTUAL HISTORY

On August 10, 2014 appellant, then a 52-year-old lead police officer, filed an occupational disease claim (Form CA-2) alleging that he sustained DVT due to sitting in the police car for an extended period of time and standing for long periods of time. He stated that he first became aware of this condition on August 15, 2012, but did not realize it was employment related until August 2, 2014.³ Appellant stopped work on August 5, 2014 and returned to limited duty on September 2, 2014.

In an October 30, 2014 report, Dr. Kashif Firozvi, a treating Board-certified oncologist, diagnosed DVT, which he attributed to appellant's prolonged periods of sitting or standing at work. The most recent event occurred on August 2, 2014. Dr. Firozvi provided work restrictions of avoiding strenuous activity and prolonged periods of immobility.

By letter dated November 19, 2014, OWCP informed appellant that the evidence of record was insufficient to establish his claim. It advised him regarding the medical and factual evidence required and requested that he complete an attached development questionnaire. OWCP afforded him 30 days to provide this information. Appellant did not respond to OWCP's request.

By decision dated December 23, 2014, OWCP denied appellant's claim finding that appellant had failed to establish the factual portion of his claim. It explained that he had not established that the event occurred as alleged.

Following the denial of his claim, appellant submitted the following medical and factual evidence.

In an April 23, 2014 report, Dr. Firozvi noted that appellant had been diagnosed with repeated DVT and described appellant's treatment. He opined that appellant could not be subjected to prolonged periods of immobility due to his chronic risk of life threatening blood clots.

By report dated August 22, 2014, Dr. Andrea D. Hulse, a treating Board-certified family practitioner, noted that appellant had been under her care for treatment of DVT (or blood clot) of his leg. She released him to return to work with restrictions including no prolonged standing, walking, distance walking, lifting, and sitting without frequent standing and walking breaks once an hour.

Dr. Firozvi, in a December 17, 2014 report, noted that appellant was being treated for DVT, which he attributed to appellant's prolonged periods of sitting or standing at work. He provided work restrictions.

³ On the original claim form appellant noted the date he first became aware of the diagnosed condition as August 2, 2014 and the date he first realized that it was employment related as August 15, 2014. He noted the correct dates in an attachment. The employing establishment identified the correct dates in an October 23, 2014 letter.

In a February 5, 2015 report, Dr. Hulse diagnosed swelling and DVT/blood clots. Appellant was released to return to work with restrictions, which included no standing more than an hour and ability to frequently get out of the car.

In an April 23, 2015 letter, Dr. Firozvi diagnosed appellant with repeated DVT. He noted that appellant developed a worsening clot burden above the inferior vena cava (IVC) filter. Dr. Firozvi reported that appellant complained of persistent pain and swelling following long periods of immobility at work.

Appellant submitted to OWCP a completed development questionnaire dated April 30, 2015. He related that he had been in his current position two and one-half years, but had been a police officer for six years.

The record contains health records dated April 13 and May 18, 2015. On April 13, 2015 appellant was seen by Youngsun P. Yoo, a family nurse practitioner, for medical surveillance police certification examination. Physical examination findings and medical history were noted. The report noted that appellant had right leg blood clots and was treated with Coumadin.

Appellant was seen by Dr. Han Quang Bui, an examining physician specializing in family and occupational medicines, on April 18, 2015. Under illness history, the report noted that appellant developed right leg DVT in 2013 and then was placed on Coumadin for six months. Dr. Bui reported that appellant had been found to be medically qualified for police officer duties in April 2014. He related that appellant developed a second DVT in 2014 and was placed on Coumadin and IVC filter. A review of medical records revealed that appellant developed a thrombosis above the IVC filter. Diagnosis included lower extremity proximal venous thrombosis deep vessel.

In a September 17, 2015 report, Dr. Firozvi provided a history of appellant's DVT condition and the work restrictions caused by this condition. He reported that appellant appeared to have another pulmonary embolism which he attributed to appellant's prolonged periods of sitting at a desk.

On September 29, 2015 appellant requested reconsideration. Subsequent to his request for reconsideration, appellant submitted the following evidence.

In a March 13, 2015 report, Dr. Fatisha E. Gayton, an examining Board-certified emergency medicine physician, noted that appellant was recently seen and treated at the Sibley Memorial Hospital Emergency Room. She indicated that appellant was prohibited from extended periods of standing at work. Dr. Gayton, in a March 13, 2015 emergency room report, diagnosed right leg pain and chronic right femoral DVT. The procedures performed were listed along with follow-up instructions.

In a May 22, 2015 report, Dr. Bui noted that he had reviewed Dr. Firozvi's April 23, 2015 report attributing appellant's leg swelling to prolonged standing as part of his work duties. He requested additional information from Dr. Firozvi regarding appellant's ability to perform the duties of a police officer and the impact of his taking Coumadin.

By decision dated November 16, 2015, OWCP found the evidence of record sufficient to establish the factual portion of appellant's claim. However, it further found that the medical opinion evidence failed to adequately explain how the diagnosed DVT was causally related to the identified work factors.

On February 8, 2016 appellant requested reconsideration.

In a January 29, 2016 report, Dr. Firozvi noted that he had treated appellant since August 2014 for extensive DVT and pulmonary emboli. He attributed these conditions to appellant's duties of standing for four to six hours without relief and on inclines. In support of this conclusion, Dr. Firozvi noted that comprehensive testing had been performed which showed no other cause for the DVT. In addition, appellant has no family history of DVT.

By decision dated May 5, 2016, OWCP denied modification. It found that Dr. Firozvi's report was conclusory and insufficiently rationalized to establish that the diagnosed condition was causally related to the identified work factors.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ has the burden of proof to establish 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 filed within the applicable time limitation, that an injury was sustained while 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.⁵ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁶

To establish that an injury was sustained in the performance of duty in a claim for occupational disease, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁷

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.⁸ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on

⁴ *Supra* note 2.

⁵ *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

⁶ *S.P.*, 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁷ *D.U.*, Docket No. 10-144 (issued July 27, 2010); *R.H.*, 59 ECAB 382 (2008); *Roy L. Humphrey*, 57 ECAB 238 (2005); *Donald W. Wenzel*, 56 ECAB 390 (2005).

⁸ *Y.J.*, Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149 (2006); *D'Wayne Avila*, 57 ECAB 642 (2006).

whether there is a causal relationship between the employee's diagnosed condition and the compensable employment factors.⁹ 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.¹⁰

ANALYSIS

OWCP accepted that appellant's job as a lead police officer involved extended periods of sitting in a police car and prolonged periods of standing or sitting. It initially denied his claim as it found that he had not established the factual portion of his claim. OWCP subsequently denied the claim as it found the medical evidence of record failed to establish a causal relationship between the accepted work factors and the claimed DVT and thrombosis.

The record contains multiple reports from Dr. Firozvi diagnosing DVT which he attributed to appellant's work duties. In reports dated April 23, October 30 and December 17, 2014, September 17, 2015, and January 29, 2016, he attributed the DVT condition to appellant's prolonged sitting, periods of immobility and standing at work. While Dr. Firozvi, in his January 29, 2016 report, opined that the cause of appellant's DVT was his prolonged standing and sitting for four to six hours since there was no family history of this condition and testing showed no other cause, such commentary is merely a general conclusion without providing medical rationale. However, he offered no explanation as to how and why the work factors of prolonged sitting and standing would cause the diagnosed condition. A mere conclusory opinion provided by a physician without the necessary rationale explaining how and why the incident or work factors were sufficient to result in the diagnosed medical condition is insufficient to meet a claimant's burden of proof to establish a claim.¹¹ Because Dr. Firozvi has not explained how or why appellant's work activities caused the diagnosed condition, his report is insufficient to meet his burden of proof.¹²

The record also contains reports from Drs. Gayton, Hulse, and Bui. A March 13, 2015 emergency room report from Dr. Gayton diagnosed right leg pain and chronic right femoral DVT. Appellant also submitted reports dated August 22, 2014 and February 5, 2015 from Dr. Hulse diagnosing DVT/blood clots and swelling. Both Dr. Gayton and Dr. Hulse indicated that appellant could work with restrictions. Dr. Bui, in an April 18, 2015 report, noted a medical history that appellant had been found medically qualified to be a police officer, and diagnosed lower extremity proximal deep vessel venous thrombosis. None of these reports offered any opinion regarding the cause of appellant's condition or mention his work history. The Board has held that medical opinion evidence that offers no opinion regarding the cause of an employee's

⁹ *J.J.*, Docket No. 09-0027 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

¹⁰ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

¹¹ *J.D.*, Docket No. 14-2061 (issued February 27, 2015).

¹² See *Beverly A. Spencer*, 55 ECAB 501 (2004).

condition is of limited probative value on the issue of causal relationship.¹³ Thus, the reports from Drs. Gayton, Hulse, and Bui are insufficient to establish appellant's claim.

The health record from Ms. Yoo has no probative value as medical evidence. The Board has noted that a nurse or nurse practitioner is not considered a physician as defined under FECA and, therefore, her opinion is of no probative value.¹⁴

Consequently, appellant has offered insufficient medical evidence to establish his claim. As noted above, causal relationship is a medical question that must be established by a probative medical opinion from a physician.¹⁵ The physician must accurately describe appellant's work duties and medically explain the pathophysiological process by which these duties would have caused or aggravated his condition.¹⁶ Because appellant has not provided such medical opinion evidence, he has failed to meet his burden of proof.

On appeal appellant contends that the medical evidence submitted is sufficient to establish his claim. He states that his physician specifically attributed his condition to his employment duties and does not understand why these reports are insufficient to establish his claim. As discussed above, none of the reports from appellant's physicians contain medical rationale explaining how appellant's duties caused or aggravated his DVT condition.

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 right DVT causally related to factors of his federal employment.

¹³ *M.S.*, Docket No. 16-1497 (issued December 20, 2016); *S.E.*, Docket No. 08-2214 (issued May 6, 2009); *Jaja K. Asaramo*, 55 ECAB 200 (2004).

¹⁴ *See B.B.*, Docket No. 09-1858 (issued April 16, 2010) (nurses); *L.D.*, 59 ECAB 648 (2008) (nurse practitioners).

¹⁵ *I.J.*, *supra* note 10; *Roy L. Humphrey*, *supra* note 7.

¹⁶ *I.J.*, *id.*; *Victor J. Woodhams*, *supra* note 10.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated May 5, 2016 is affirmed.

Issued: May 18, 2017
Washington, DC

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

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

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