

ISSUE

The issue is whether appellant has met his burden of proof to establish Valley Fever causally related to the accepted factors of his federal employment.

FACTUAL HISTORY

On February 7, 2018 appellant, then a 34-year-old distribution process supervisor, filed an occupational disease claim (Form CA-2) alleging that he contracted coccidioidomycosis, also known as Valley Fever, due to factors of his federal employment. He explained that Valley Fever is a fungus that grows in dust and soil and, when inhaled, spores could lodge in the lungs and grow causing fever, cough, etc. Appellant was first hospitalized on January 2, 2018. He indicated that he first became aware of his condition and that it was caused or aggravated by his employment duties on January 5, 2018. Appellant did not stop work.

In a supporting narrative statement dated January 5, 2018, appellant indicated that on December 23, 2017 he began to have a light cough. Beginning in the evening of December 24, 2017, he felt very tired and by the end of the evening he had developed a fever. The next morning appellant woke up and thought he was feeling better, but by the afternoon he was feverish and sweating profusely for the remainder of the evening. On December 26, 2017 he was feeling the same level of sickness and by the afternoon began experiencing severe chest pain while at work. Appellant advised his supervisor that he needed to leave for the day as he was going to the hospital.

Appellant underwent testing at an emergency room and was diagnosed with an upper respiratory infection. He was discharged with instructions for his care and advised that he should remain off work for three days. Appellant returned to work on December 29, 2017, despite not feeling well. He returned to the hospital the following day and was diagnosed with pneumonia and was treated with antibiotics. On January 1, 2018 appellant was had no relief from his symptoms, had a fever of 103 degrees, and complained of kidney pain. Upon his return to the hospital, he was flagged for sepsis and the possibility of another illness.

On January 2, 2018 Dr. Neel Shah, a Board-certified oncologist, evaluated appellant and advised him of his opinion that he had Valley Fever. He indicated that this condition was more prevalent in warehouse environments around dust or pigeon droppings, as well as field workers who are exposed to soil where fungus grows. On January 5, 2018 Dr. Shah received preliminary test results indicating that he had Valley Fever. He also noted that the test indicated that the fungus had entered appellant's body within the few days prior to the start of his symptoms. Dr. Shah provided treatment for appellant's Valley Fever until January 8, 2018 when he was released from the hospital to continue his recovery at home.

In a January 19, 2018 report, Dr. Mitchell Seitz, a Board-certified internist, diagnosed primary fungal infection of the lung due to coccidioides immitis. A respiratory culture dated January 19, 2018 demonstrated coccidioides immitis, confirmed by deoxyribonucleic acid probe and light mixed respiratory flora.

In a development letter dated February 20, 2018, OWCP informed appellant that the factual and medical evidence of record was insufficient to establish his claim. It advised him of the

deficiencies of his claim, requested that he provide additional factual and medical evidence to establish his claim, and afforded him 30 days to submit the necessary evidence.

In response appellant submitted a January 10, 2018 report from Dr. Seitz indicating that he had developed a cough, fevers, chills, and sweats and had eventually been diagnosed with Valley Fever.

A diagnostic test dated February 5, 2018 demonstrated serologic findings which confirmed that appellant had a coccidioidal infection.

In a progress report dated February 16, 2018, Dr. Seitz indicated that appellant appeared to be improving. He anticipated an approximate six-month course of treatment and two additional weeks off work before deciding on further work restrictions.

In a March 20, 2017 narrative statement, appellant noted that he supervised multiple employees in different warehouses and handled very dusty and dirty materials on a daily basis at work. He noted that there was also construction taking place at his duty station, which caused dust and dirt to fly around. Appellant reported that his exposure to fungus outside of his employment was minimal and he had never been previously diagnosed with Valley Fever or any other respiratory condition. He further indicated that he had coworkers who had also been diagnosed with Valley Fever.

In an April 3, 2018 letter, the employing establishment noted that an internal investigation concluded that the allegations of other employees being sick due to Valley Fever could not be substantiated. Prior to receiving the complaint, the employing establishment had been investigated and it was determined that Valley Fever was caused by the fungus *coccidioides immitis* that lived in the top 2 to 12 inches of soil in many parts of the state of California. The letter also explained that, according to the Centers for Disease Control and Prevention, there were no commercially available tests to detect the liberated fungal spores in the soil. It further noted the difficulties with testing for *coccidioides immitis*. The employing establishment stressed the importance of good housekeeping in order to minimize dust accumulation and also offered filtering face pieces to all employees as a personal protective equipment option.

The employing establishment also submitted a copy of its February 17, 2016 respiratory protection plan, a "Coccidioidomycosis in California Provisional Monthly Report" for January to February 2018, and a copy of the safety orientation for contractors.

By decision dated April 27, 2018, OWCP found that the factual evidence was sufficient to establish fact of injury, but denied the claim finding that the medical evidence of record failed to establish a causal relationship between the diagnosed condition and the accepted factors of appellant's federal employment.

On May 30, 2018 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. The hearing was held on November 15, 2018.

In a letter dated December 17, 2018, the employing establishment controverted appellant's claim indicating that the record contained no rationalized medical opinion evidence to establish

causal relationship between his condition and his employment. It also noted that appellant both lived and worked in a “coccidiorides or Valley Fever endemic area” of California.

By decision dated January 30, 2019, the hearing representative affirmed the April 27, 2018 decision finding that the medical evidence of record was insufficient to establish a causal relationship between the diagnosed condition and the accepted factors of appellant’s federal employment.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence, 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 or specific condition for which compensation is claimed is causally related to the employment injury.⁴ These are the essential elements of every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁵

To establish that an injury was sustained in the performance of duty in an occupational disease claim, an employee must submit the following: (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.⁶

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁷ A physician’s opinion on whether there is causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background.⁸ Additionally, the physician’s 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 factor(s).⁹

³ *Id.*

⁴ *K.V.*, Docket No. 18-0947 (issued March 4, 2019); *M.E.*, Docket No. 18-1135 (issued January 4, 2019); *Kathryn Haggerty*, 45 ECAB 383, 388 (1994).

⁵ *K.V. and M.E., id.; Elaine Pendleton*, 40 ECAB 1143 (1989).

⁶ *R.G.*, Docket No. 19-0233 (issued July 16, 2019). *See also Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁷ *T.H.*, 59 ECAB 388, 393 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

⁸ *M.V.*, Docket No. 18-0884 (issued December 28, 2018).

⁹ *Id.*; *Victor J. Woodhams*, *supra* note 6.

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish Valley Fever causally related to the accepted factors of his federal employment.

In support of his claim, appellant submitted a January 2, 2018 report from Dr. Shah in which he diagnosed Valley Fever and explained that this condition was more prevalent among warehouse workers who are exposed to a lot of dust or in the fields and exposed to soil where fungus grows. While Dr. Shah provided a diagnosis, he did not offer an opinion as to whether appellant's employment caused or aggravated his condition.¹⁰ Medical evidence that does not offer an opinion regarding the cause of an employee's condition or disability is of no probative value on the issue of causal relationship.¹¹ As Dr. Shah's report does not provide an opinion as to causal relationship, it is insufficient to meet appellant's burden of proof to establish his claim.

Similarly, Dr. Seitz, in his reports dated January 10, 19, and February 16, 2018, provided diagnoses and examination findings, but failed to provide an opinion on causal relationship. As such, his reports are also of no probative value and are insufficient to establish appellant's claim.¹²

In support of his claim, appellant also submitted diagnostic imaging studies in the form of a January 19, 2018 respiratory culture and serologic findings dated February 5, 2018. The Board has held that diagnostic studies lack probative value as they do not provide an opinion on causal relationship between the employment exposure and appellant's diagnosed condition(s).¹³ These reports are therefore insufficient to establish appellant's claim.

As appellant has not submitted rationalized medical evidence to support his claim that his diagnosed condition of Valley Fever was causally related to the accepted factors of his federal employment he has not met his burden of proof to establish his claim.

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 Valley Fever causally related to the accepted factors of his federal employment.

¹⁰ See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹¹ *Id.*

¹² *Id.*

¹³ *I.C.*, Docket No. 19-0804 (issued August 23, 2019).

ORDER

IT IS HEREBY ORDERED THAT the January 30, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 21, 2019
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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