



the employing establishment controverted appellant's claim noting that he was not injured while in the performance of duty as he was on leave in Jordan from his deployment in Afghanistan at the time of the incident. Appellant stopped work on September 6, 2017 and returned to full-time work without restrictions on April 6, 2018.

In support of his claim, appellant submitted a September 27, 2017 report, wherein Dr. Janet Lin, a Board-certified specialist in internal medicine, noted that appellant presented with syncope, cardiac arrest, and aspiration pneumonia. Dr. Lin reported that, while on vacation in Jordan, he suffered an episode of syncope and went into cardiac arrest. She reported that appellant's cardiac arrest was thought to be secondary to diabetic ketoacidosis (DKA) related to his untreated diabetes. Dr. Lin indicated that he was also treated for acute renal failure, aspiration pneumonia, large sacral decubitus ulcer, and methicillin-sensitive staphylococcus aureus (MSSA). She examined appellant and diagnosed sepsis, aspiration pneumonia, diabetes mellitus with hyperglycemia, MSSA, cardiac arrest secondary to DKA, unstable sacral decubitus ulcer, and hand paresthesia.

In a September 29, 2017 orthopedic evaluation, Dr. Alan Hibberd, a Board-certified orthopedic surgeon, found that appellant had several, non-benign ischemic lesions on the left index finger, buttocks, and lateral aspect of the heel.

In an October 9, 2017 report, Dr. In-Seok Park, a Board-certified specialist in internal medicine, noted appellant's medical history including his hospital stays in Jordan and Texas. He examined appellant and diagnosed acute respiratory failure with hypoxia, bilateral healthcare-associated pneumonia, recent cardiac arrest, type 2 diabetes, sacral decubitus ulcer, anemia of chronic disease, recent MSSA sepsis, and severe debility.

In an April 26, 2018 timeline, appellant noted that he was deployed to Afghanistan on November 4, 2016. He indicated that he traveled to Jordan on April 21, 2017 and suffered a heart attack on September 6, 2017. Appellant indicated that he was released from Istishari Hospital in Jordan on September 16, 2017. He reported that he was treated in Al Udeid Medical Facility from September 16 to 17, 2017, Landstuhl Regional Medical Center, Ramstein Air Base Germany from September 18 to 23, 2017, Walter Reed Hospital from September 24 to 25, 2017, San Antonio Medical Center from September 25 to 26, 2017, and St. Luke's Baptist Hospital from September 26 to October 9, 2017. Appellant then noted that he spent October 9 through April 4, 2018 with his family in San Antonio, Texas recovering from open wounds to his sacrum. He indicated that he returned to duty at Hill Air Force Base in Utah on April 5, 2018.

In a May 1, 2018 letter, the employing establishment controverted appellant's traumatic injury claim based on performance of duty, noting that appellant was on vacation when the alleged employment incident occurred.

In a May 2, 2018 report, LtCol Gabriel C. Pepper, a Board-certified physician specializing in occupational medicine, noted that appellant suffered a cardiac arrest in Jordan on September 6, 2017 after experiencing a syncopal event. He noted that appellant was treated in Jordan and Germany before being transferred to St. Luke's Baptist Hospital in Texas. Dr. Pepper indicated that appellant was treated for cardiac arrest, DKA, acute pancreatitis, acute kidney insufficiency, MSSA, aspiration pneumonia, decubitus ulcer, multi-focal pneumonia, and bilateral hand paresthesia. He reported that appellant's EKG at St. Luke's revealed mild tricuspid and mitral regurgitation with mild pulmonary pressure. Dr. Pepper further noted that appellant's EMG studies showed median nerve neuropathies bilaterally. He also noted that, following his two-week

stay at St. Luke's, appellant spent six months recovering and treating his open decubitus ulcer before returning to full-duty work without restrictions on April 6, 2018. Dr. Pepper indicated that he had been improving, but continued to experience bilateral hand pain.

A May 4, 2018 development letter from OWCP informed appellant that the evidence of record was insufficient to establish his claim. It advised him of the type of factual and medical evidence needed and provided a questionnaire for his completion. OWCP afforded appellant 30 days to submit the necessary evidence.

OWCP subsequently received an October 4, 2017 operative procedure report, Dr. Charles Duncan, a Board-certified specialist in internal medicine, which described the details of a flexible fiber optic bronchoscopy performed as a result of appellant's acute respiratory failure with bilateral pulmonary infiltrates.<sup>2</sup>

On May 28, 2018 appellant responded to OWCP's development questionnaire. He noted that, while his normal workweek required 12-hour days, 7 days a week, during the last two months of his tour, he worked 18-hour days, 7 days a week. Appellant reported feeling more tired and noted that he began to experience weight loss. He alleged that the stress of his job contributed to his diabetes and ultimately his cardiac arrest on September 6, 2017. Appellant indicated that he had not experienced any cardiac symptoms prior to September 6, 2017 and reported that, prior to his deployment to Afghanistan, he had no issues with blood pressure, diabetes, or artery disease. He noted that he had never smoked tobacco products and did not drink alcohol.

Appellant submitted reports documenting pulmonary/respiratory evaluations, computerized tomography scan results, diagnostic radiology results, magnetic resonance imaging scan results, ultrasound results, chemistry testing, coagulation studies, hematology testing, microbiology testing, urinalysis testing, and a list of administered medications related to his September 26 to October 9, 2017 stay at St. Luke's Baptist Hospital. Appellant also submitted medical reports and diagnostic testing related to a pneumonia diagnosis.

A November 28, 2017 echocardiogram (EKG) report revealed mild mitral regurgitation, mild tricuspid regurgitation, and mildly elevated pulmonary artery systolic pressure.

A December 19, 2017 nuclear stress test revealed normal left ventricular systolic function.

In a February 14, 2018 report, Dr. Patrick Grogan, a Board-certified neurologist, performed a neurological examination and diagnosed hand pain, neuralgia, and meralgia paresthetica of the left leg.

In a March 20, 2018 report, Dr. Grogan reviewed the February 21, 2018 EMG study results and diagnosed median neuropathies, neuralgia, and meralgia paresthetica of the left leg. He noted that appellant was improving.

In April 13, 17, and 26, 2018 work status reports, Dr. Pepper indicated that appellant could return to full-duty work.

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<sup>2</sup> A January 26, 2011 letter, wherein Dr. Stephanie Olsen, a Board-certified specialist in internal medicine, reviewed a January 21, 2011 myocardial perfusion stress test and reported that appellant had an excellent prognosis and should be cleared for service without restrictions.

In May 10 and 29, 2018 witness statements, two of appellant's coworkers noted that appellant regularly worked an additional 3 to 4 hours nightly beyond his normal 12-hour, 7 days a week work schedule. They indicated that he worked this increased schedule because of the demands and responsibilities of his work assignment. The witnesses reported that appellant's energy decreased towards the end of his mission and that he looked tired and worn down from the extra hours he was working.

By decision dated June 22, 2018, OWCP denied appellant's traumatic injury claim, finding that he was not injured while in the performance of duty as he was on vacation in Jordan on the date of injury.

OWCP subsequently received a September 22, 2017 patient movement record, wherein Dr. Daniel Golovko, a Board-certified specialist in internal medicine, noted that on September 6, 2017 appellant suffered cardiac arrest in Jordan due to DKA from previously undiagnosed diabetes mellitus. Dr. Golovko noted that appellant's diabetes mellitus was now under control. He diagnosed diabetes and MSSA and recommended that appellant be transferred to Brooke Army Medical Center.

In May 2 and June 27, 2018 work status reports, Dr. Pepper indicated that appellant could return to full-duty work.

Appellant also submitted a June 12, 2018 medical record which consisted of medical notes and diagnostic test results from 75<sup>th</sup> Medical Group, Brooke Army Medical Center, Landstuhl Regional Medical Center, Ramstein Air Base, and Joint Base Andrews dated September 16, 2017 through May 2, 2018.

On July 23, 2018 appellant requested reconsideration.

In a July 12, 2018 report, Dr. Pepper diagnosed bilateral median nerve neuropathy of the hands as well as diabetes. He found that appellant's work hours and stress were above average and, in combination with the environmental aspects of his deployment, they increased his susceptibility to developing DKA. Dr. Pepper opined that, while appellant was on vacation when he experienced cardiac arrest, it was caused by DKA which in turn was caused by undiagnosed, untreated diabetes that was exacerbated by the physical stressors of appellant's federal employment. He indicated that appellant was intubated and restrained which caused nerve damage to his hands. Dr. Pepper opined that appellant's cardiac arrest was work related to a reasonable degree of medical probability.

In an August 24, 2018 development letter, OWCP notified the employing establishment that appellant and two of his coworkers had submitted statements that described employment factors as the cause or contributing factors of appellant's medical conditions. It requested that the employing establishment review the statements and address what aspects of his job could be considered stressful and note any accommodations that were made to reduce stress. OWCP afforded the employing establishment 20 days to provide the necessary evidence. No response was received.

By decision dated October 15, 2018, OWCP noted that it had converted appellant's traumatic injury claim to an occupational disease claim. It modified the June 22, 2018 decision, finding that the evidence of record established that appellant worked extra hours on a regular basis, which was a compensable factor of employment that occurred in the performance of duty.

However, OWCP further found that the claim remained denied as the medical evidence of record was insufficient to establish that appellant's diagnosed conditions were caused or aggravated by his accepted factor of employment.

On January 18, 2019 appellant requested reconsideration.

In a November 23, 2018 letter, appellant's supervisor stated that appellant routinely worked 80 hours or more each week during his deployment. He noted that there was little that could be done to reduce the stress of the job. Appellant's supervisor also noted that the danger of the position also contributed to stress. He reported that the airfield would occasionally come under rocket attack, usually late at night. Appellant's supervisor indicated that the environmental factors in Afghanistan made it difficult to work. He stated that temperatures regularly reached 120 degrees Fahrenheit and that appellant sometimes needed to wear full body armor and Kevlar helmets in these conditions. Appellant's supervisor also noted that constant dust was a common problem that was exacerbated by wind.

In a January 9, 2019 report, Dr. Pepper noted that heat, cold, wind, dust, increased physical activity, working long hours, and working in a war zone were employment factors that could contribute to stress. He noted that it was well established that physical and mental stress could affect insulin production and unmask the symptoms of underlying diabetes. Dr. Pepper indicated that the symptoms of diabetes could go unrecognized which could lead to the development of DKA. He noted that the symptoms of DKA could go unrecognized, causing hypoglycemia, hypokalemia, and cerebral edema which could lead to a syncopal event and cardiac arrest. Dr. Pepper opined that the established employment factors could lead to the unmasking of diabetes, which progressed to the point of DKA and then syncope and cardiac arrest. He found that this represented a direct causal relationship, despite the fact that the cardiac arrest occurred when appellant was on vacation, since the disease process leading to the cardiac arrest occurred during his regular deployment duties.

By decision dated April 18, 2019, OWCP denied modification of the October 15, 2018 decision.

On July 25, 2019 appellant requested reconsideration.<sup>3</sup>

With his request, appellant submitted an e-mail thread dated June 25 through 27, 2017 showing that he was unable to receive medical treatment at Kandahar Airfield.

OWCP also received September 6 and 7, 2017 hematology reports.

In September 13 and 16, 2017 reports, Dr. Nayef Habahbeh, an internist, noted that appellant was admitted to Istishari Hospital on September 6, 2017. He diagnosed post cardiac arrest, severe metabolic acidosis due to DKA, acute pancreatitis, aspiration pneumonia, and sepsis.

By decision dated August 21, 2019, OWCP denied appellant's request for reconsideration of the merits of his claim pursuant to 5 U.S.C. § 8128(a).

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<sup>3</sup> In an accompanying July 22, 2019 memorandum, appellant noted that he submitted an amendment from Dr. Pepper dated May 22, 2019 and a memorandum for the record dated July 1, 2019. However, these documents are not of record.

## LEGAL PRECEDENT -- ISSUE 1

An employee seeking benefits under FECA<sup>4</sup> 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 timely filed within the applicable time limitation period of FECA,<sup>5</sup> that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.<sup>6</sup> These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>7</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant 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 identified employment factors.<sup>8</sup>

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 compensable factors of employment and may not be considered.<sup>9</sup> If an employee does implicate a factor of employment, OWCP should then determine whether the evidence of record substantiates that factor. As a rule, allegations alone by a claimant are insufficient to establish a factual basis for an emotional condition claim. The claim must be supported by probative evidence.<sup>10</sup> If a compensable factor of employment is substantiated, OWCP must base its decision on an analysis of the medical evidence which has been submitted.<sup>11</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>12</sup> The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must

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<sup>4</sup> *Supra* note 1.

<sup>5</sup> *G.L.*, Docket No. 18-1057 (issued April 14, 2020); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>6</sup> *M.G.*, Docket No. 18-1616 (issued April 9, 2020); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>7</sup> 20 C.F.R. § 10.115; *A.S.*, Docket No. 19-1955 (issued April 9, 2020); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>8</sup> *R.G.*, Docket No. 19-0233 (issued July 16, 2019). *See also* *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>9</sup> *Y.W.*, Docket No. 19-1877 (issued April 30, 2020); *Dennis J. Balogh*, 52 ECAB 232 (2001).

<sup>10</sup> *L.S.*, Docket No. 18-1471 (issued February 26, 2020); *Charles E. McAndrews*, 55 ECAB 711 (2004).

<sup>11</sup> *M.A.*, Docket No. 19-1017 (issued December 4, 2019); *Norma L. Blank*, 43 ECAB 384, 389-90 (1992).

<sup>12</sup> *L.F.*, Docket No. 19-1905 (issued April 10, 2020); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment incident identified by the claimant.<sup>13</sup>

### ANALYSIS -- ISSUE 1

The Board finds that this case is not in posture for decision.

In support of his claim, appellant submitted July 12, 2018 and January 9, 2019 reports from Dr. Pepper which discussed causal relationship. Dr. Pepper provided a comprehensive history of appellant's medical conditions and found that heat, cold, wind, dust, increased physical activity, working long hours, and working in a war zone were employment factors that could contribute to stress. He noted that physical and mental stress could affect insulin production and unmask the symptoms of underlying diabetes. Dr. Pepper indicated that the symptoms of diabetes and DKA could go unrecognized, causing hypoglycemia, hypokalemia, and cerebral edema which could lead to a syncopal event and cardiac arrest. He opined that appellant's employment factors could lead to diabetes, which progressed to the point of DKA and then syncope and cardiac arrest. Dr. Pepper found that this represented a direct causal relationship despite the fact that the cardiac arrest occurred when appellant was on vacation in Jordan. Dr. Pepper provided a proper factual and medical history in his July 12, 2018 and January 9, 2019 reports. He opined that appellant's cardiac arrest was caused by undiagnosed, untreated diabetes and DKA which was caused by the stressors of appellant's federal employment. Dr. Pepper found that appellant's cardiac arrest was "work-related to a reasonable degree of medical probability" and that there was a "direct causal relationship." His findings were supported by the statement of appellant's supervisor who noted that appellant routinely worked 80 hours or more each week during his deployment, there was little that could be done to reduce the stress of the job, and that the danger of the position also contributed to stress. The supervisor also indicated that the airfield would occasionally come under rocket attack, environmental factors in Afghanistan made it difficult to work, temperatures regularly reached 120 degrees Fahrenheit and that appellant sometimes needed to wear full body armor and Kevlar helmets in these conditions, constant dust was a common problem that was exacerbated by wind, employees were required to manually perform employment duties outside in heat. As these conditions were substantiated by a supervisor and were unopposed factually, they are found by the Board to also constitute additional compensable factors.

Proceedings under FECA are not adversarial in nature, and OWCP is not a disinterested arbiter. While the claimant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence to see that justice is done.<sup>14</sup> The Board finds that while Dr. Pepper's opinion is not fully rationalized, it is relevant evidence in support of appellant's claim as it explains the physiological process by which his accepted factors of federal employment could have affected his insulin production and caused diabetes, progressing to DKA and ultimately syncope and cardiac arrest. Furthermore, Dr. Pepper's opinion is based upon a complete factual history and medical background and expresses an unequivocal opinion on causal relationship that is supportive of the claim. Although his opinion is insufficiently rationalized to meet appellant's burden of proof, it raises an undisputed inference of causal

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<sup>13</sup> A.S., *supra* note 7; *Leslie C. Moore*, 52 ECAB 132 (2000).

<sup>14</sup> R.S., Docket No. 19-1939 (issued May 6, 2020); *John J. Carlone*, 41 ECAB 354 (1989).

relationship sufficient to require further development by OWCP.<sup>15</sup> Accordingly, the Board will remand the case to OWCP for further development of the medical evidence based upon all compensable employment factors.<sup>16</sup>

On remand OWCP shall refer appellant, the case record, and a statement of accepted facts which incorporates all of the compensable employment factors to an appropriate specialist(s) for an evaluation to obtain a rationalized medical opinion on whether the compensable employment factors caused, contributed to, or aggravated appellant's diabetic and cardiac conditions. If the physician(s) disputes the opinion or findings of Dr. Pepper, the report shall provide a rationalized explanation as to the basis for the disagreement. Following this and any other further development as deemed necessary, OWCP shall issue a *de novo* decision.<sup>17</sup>

### **CONCLUSION**

The Board finds that this case is not in posture for decision.

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<sup>15</sup> *I.S.*, Docket No. 19-1461 (issued April 30, 2020).

<sup>16</sup> On appeal and in his July 22, 2019 request for reconsideration, appellant referenced a May 22, 2019 amendment from Dr. Pepper. He noted that OWCP did not address or evaluate the amendment in its August 21, 2019 decision. However, the Board finds that this amendment cannot be considered as it is not of record.

<sup>17</sup> In light of the Board's disposition in issue 1, the second issue is rendered moot.

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 21 and April 18, 2019 decisions of the Office of Workers' Compensation Programs are set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: July 9, 2020  
Washington, DC

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

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

Patricia H. Fitzgerald, Alternate Judge  
Employees' Compensation Appeals Board