

**United States Department of Labor
Employees' Compensation Appeals Board**

CHUNG H. WONG, Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Los Angeles, CA, Employer**

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**Docket No. 05-1827
Issued: December 22, 2005**

Appearances:
Chung H. Wong, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
WILLIE T.C. THOMAS, Alternate Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On August 31, 2005 appellant filed a timely appeal of an August 9, 2005 decision of the Office of Workers' Compensation Programs, denying his claim for compensation from May 7 to 13, 2005. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has established an employment-related disability from May 7 to 13, 2005.

FACTUAL HISTORY

On November 18, 2004 appellant, then a 64-year-old distribution clerk, filed a traumatic injury claim for continuation of pay/compensation (Form CA-1), alleging that he sustained injuries in a slip and fall at work on November 14, 2004. The Office accepted the claim for right shoulder humeral head fracture, bilateral knee contusions, facial abrasions and right elbow contusion. In a report dated November 30, 2004, Dr. Craig Huber, a family practitioner, noted

that appellant had a history of diabetes, hypertension and congestive heart failure. He enumerated a number of cardiac and diabetic medications that appellant was currently taking. Appellant returned to a light-duty job on March 5, 2005.

On May 17, 2005 the Office received a claim for compensation (Form CA-7). The period of compensation claimed appear to be May 7 to 13, 2005, although the dates had been crossed out. A CA-7 submitted on July 29, 2005 claimed compensation from July 9 to 13, 2005.

In a report dated May 27, 2005, Dr. Tat Lam, a family practitioner, stated, "Without prior known symptoms, signs or diagnosed upper gastrointestinal pathology and current result of negative H. pylori Igg titer, in my opinion, [appellant's] episode of duodenal ulcer and hemorrhage was most likely caused by his intake of nonsteroidal anti-inflammatory medication along with warafin." The record also contains an unsigned medical report dated May 13, 2005 indicating that appellant had gastrointestinal bleeding that required hospitalization. In a note dated May 21, 2005, Dr. Delaney Smith stated that appellant had been hospitalized due to gastrointestinal bleeding secondary to "[illegible] drug [prescription] -- Motrin."

By decision dated August 9, 2005, the Office denied appellant's claim for compensation from May 7 to 13, 2005. The Office found that the medical evidence was not sufficient to establish an employment-related disability for the period claimed.

LEGAL PRECEDENT

The basic rule respecting consequential injuries as expressed by Larson is that "when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury likewise arises out of the employment, unless it is the result of an independent intervening cause which is attributable to the [employee's] own intentional conduct."¹ The subsequent injury "is compensable if it is the direct and natural result of a compensable primary injury."² With regard to consequential injuries, the Board has stated that where an injury is sustained as a consequence of an impairment residual to an employment injury, the new or second injury, even though nonemployment related, is deemed, because of the chain of causation, to arise out of and be in the course of employment and is compensable.³ However, an employee who asserts that a nonemployment-related injury was a consequence of a previous employment-related injury has the burden of proof to establish that such was the fact.⁴

ANALYSIS

Appellant contends that the medication he took for his employment injuries caused gastrointestinal bleeding and resulting disability. To meet his burden of proof, appellant must establish a gastrointestinal condition as a consequence of taking medication for an employment-

¹ A. Larson, *The Law of Workers' Compensation* § 13.00 (2000).

² *Id.* at § 13.11.

³ *Jessie Johnson, Jr.*, 39 ECAB 945, 950 (1988); *Marie Denhart*, 32 ECAB 1168, 1170 (1981).

⁴ *Theron J. Barham*, 34 ECAB 1070, 1076 (1983).

related condition and then establish a period of disability. Although he contends that Dr. Lam's May 27, 2005 report is sufficient to meet his burden, the Board finds this report is of diminished probative value to the issues presented. Dr. Lam did not provide a complete factual and medical background. The Board notes, for example, that appellant was taking a number of medications unrelated to the accepted employment injuries and any opinion on causal relationship must discuss those medications. Dr. Lam did not discuss in detail the gastrointestinal condition or the specific period of disability. Moreover, his opinion did not discuss the specific medications that appellant took for the employment injuries or explain how these medications caused gastrointestinal bleeding. His statement that appellant's gastrointestinal condition was most likely caused by anti-inflammatory medication is not sufficient to establish a consequential injury without a proper history and medical rationale.⁵

The Board accordingly finds that the medical evidence is not sufficient to meet appellant's burden of proof in this case. The Office properly denied the claim for compensation from May 7 to 13, 2005.

CONCLUSION

The Board finds that appellant did not establish an employment-related disability for the period May 7 to 13, 2005.

⁵ See *Kathy A. Kelley*, 55 ECAB ____ (Docket No. 03-1660, issued January 5, 2004) (physician's opinion that medication for employment injury was most likely the cause of a fall and subsequent injury was speculative and insufficient to establish a consequential injury).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated August 9, 2005 is affirmed.

Issued: December 22, 2005
Washington, DC

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

Willie T.C. Thomas, Alternate Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board