

overhauling helicopters in the performance of duty. He became aware of his condition on August 2, 2007.¹

In an affidavit dated May 17, 2006, appellant stated that he worked for the employing establishment from January 19, 1966 to February 5, 1988, when he retired. In 1966 he worked on the defueling team, removing jet fuel from battle-damaged helicopters that had been used to spray Agent Orange in Vietnam. Warning signs were posted on the helicopters indicating that they were contaminated, but employees were never informed as to the type of contamination, and were not provided with any protective breathing equipment. Appellant alleged that he was exposed to significant amounts of debris, including red sand and dirt, grasses and weeds, and pools of black chemicals, on a daily basis. In late 1967, he worked in the cleaning shop, where he was exposed to boiling vats of chemicals. Appellant was also exposed to asbestos fibers, which were released into the air when asbestos strips were removed from helicopter engines. He also claimed that he suffered from Type II diabetes as a result of his exposure to these substances.

Appellant submitted an August 1, 2007 report of a colonoscopy performed on that date by Dr. Thaddeus Grabowy, a Board-certified gastroenterologist. The procedure revealed an inflamed mucosa in the sigmoid, as well as sigmoid and rectal polyps, which were removed and sent to pathology for biopsy. An August 2, 2007 pathology report from Joanne Ranalta identified the specimen received as "rectal polyps." The record contains an August 2, 2007 surgical pathology report of a sigmoid colon biopsy, signed by Dr. Haig Munassian, a pathologist. The report reflected diagnoses of infiltrating moderately differentiated adenocarcinoma; distal sigmoid hyperplastic polyps; and rectal hyperplastic polyps.

By letter dated August 24, 2007, the Office informed appellant that the information submitted was insufficient to establish his claim, and advised him to submit a comprehensive report from a physician, which contained a diagnosis and a reasoned opinion as to the cause of his condition.

In a letter dated September 5, 2007, appellant informed the Office that he underwent surgery for colon cancer in August 2007, during which his physician discovered that he also had liver cancer. He alleged that his newly discovered liver cancer was a direct result of his exposure to Agent Orange.

On September 18, 2007 appellant filed a traumatic injury claim alleging that his colon and liver cancer were latent conditions resulting from dioxin exposure from 1966 through 1973.

¹ The record establishes that appellant filed two other separate claims for conditions sustained which allegedly resulted from his exposure to Agent Orange. Appellant initially filed a claim on March 2, 1988 under file number A50-0040560, alleging that he developed fatigue, depression, a skin condition, a rapid heart beat, stress and anxiety due to his exposure. By decision dated March 31, 1992, the Board affirmed the Office's denial of the claim on the grounds that it was not timely filed (Docket No. 91-1047, issued March 31, 1992). On January 7, 2005 appellant filed a claim for an injury under file number 162088270, alleging that he developed Type II diabetes and peripheral neuropathy as a result of the Agent Orange exposure. By decision dated July 2, 2007, the Office denied appellant's claim on the grounds that the medical evidence failed to establish that the conditions of Type II diabetes and peripheral neuropathy were related to the established work-related exposure. The July 2, 2007 decision is currently before the Board on appeal (Docket No 07-1911).

In an undated occupational disease claim, he alleged that he developed Type II diabetes, as well as colon and liver cancer, due to his exposure to dioxin-filled dirt and sand. In a statement dated September 15, 2007, appellant reiterated his claim that he was repeatedly exposed to dirt and sand that was saturated with Agent Orange and dioxin (the deadly component of Agent Orange) while overhauling helicopters that had engaged in battle in Vietnam. The Office assigned the same claim number to appellant's claim for colon and liver cancer, and on September 26, 2007 informed him that it was unnecessary to submit additional claims.

In a letter dated September 29, 2007, appellant stated that he was not aware of any liver or colon cancer in his family. On October 1, 2007 he alleged that, in 1966, he was exposed to benzene at the cleaning and plating shop, where he handled parts that were dipped in benzene. Appellant also stated that he inhaled rat poison, without any protection to his lungs, when it was blown out of the helicopter compartments with an air hose. There was allegedly white powder "everywhere" inside the helicopters.

The record contains an Office note from Raquel B. Amaya reflecting the contents of an April 7, 1989 telephone conversation with Allan Martinez, a packaging specialist with the employing establishment. Mr. Martinez, who was an "in-checker" during the Vietnam era, stated that helicopters were decontaminated at the point of origin, and that by the time appellant or any other shop personnel would have received them, they would have been thoroughly cleaned. He remembered seeing white powder in an aircraft only once.

In a statement dated July 6, 2007, Supervisor Fred Barcroft indicated that appellant was on loan to the cleaning shop during 1966. On September 30, 2007 appellant submitted a list of coworkers who were allegedly concerned about working with dioxin. He provided an undated picture, which he described as "First version of helicopter spraying Agent Orange." In an undated statement, Aron E. Alexander, a coworker, indicated that he had worked with appellant on the aircraft assessment line at the employing establishment during the last half of the 1960's. He stated that they worked without protective clothing, cleaning helicopters brought in from Vietnam, and denied that the helicopters had been cleaned before they were received. They allegedly inhaled white powdery substances, sand and colored dirt, as well as asbestos. In a letter dated October 4, 2007, appellant alleged that the family of Doak Russell, a coworker, had been decimated by the employing establishment, noting that numerous members of the family had died of cancer which was caused by dioxin exposure.

In a decision dated October 24, 2007, the Office denied appellant's claim, finding that evidence was insufficient to establish that he sustained colon or liver cancer in the performance of duty. It accepted that appellant was exposed to typical fuels and solvents normally associated with his work environment. Based on information from his agency, the Office also found that it was reasonable to conclude that he may have experienced minimal exposure to Agent Orange. However, it found that the medical evidence was not sufficient to establish that either his liver or colon cancer was caused by the claimed exposure. The Office did not address appellant's claim as it related to diabetes, as this condition was addressed by the Office under a separate claim.²

² *Supra* note 1.

LEGAL PRECEDENT

A claimant seeking benefits under the Federal Employees' Compensation Act³ has the burden of establishing the essential elements of his claim by the weight of the reliable, probative and substantial evidence, including that any specific condition or disability for work for which he claims compensation, is causally related to the employment injury.⁴

In an occupational disease claim, to establish that an injury was sustained in the performance of duty, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁵

The medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. 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 be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁶

ANALYSIS

The Office accepted that appellant was exposed to typical fuels and solvents normally associated with his work environment, and that he may have experienced minimal exposure to Agent Orange while working on helicopters that had been used in Vietnam. However, the medical evidence of record is insufficient to establish that his conditions of colon and liver cancer were caused by exposure to these substances.⁷ Therefore, appellant has failed to meet his burden of proof.

In support of his claim for compensation for colon cancer, appellant submitted an August 1, 2007 report of a colonoscopy, which revealed an inflamed mucosa in the sigmoid, as well as sigmoid and rectal polyps; an August 2, 2007 pathology report, which identified the specimen received as "rectal polyps"; and an August 2, 2007 surgical pathology report of a

³ 5 U.S.C. § 8101 *et seq.*

⁴ 20 C.F.R. § 10.115(e), (f) (1999). *See Gary M. DeLeo*, 56 ECAB 656 (2005). *See also Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

⁵ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁶ *Id.*

⁷ As previously noted, the Office did not address appellant's claim as it related to the condition of Type II diabetes, as his claim for this condition was denied under a separate file number 162088270 on July 2, 2007. The Office's July 2, 2007 decision is currently before the Board on appeal (Docket No 07-1911).

sigmoid colon biopsy, which reflected diagnoses of infiltrating moderately differentiated adenocarcinoma, distal sigmoid hyperplastic polyps and rectal hyperplastic polyps. None of these reports contains a history of appellant's exposure to dioxin, as alleged by appellant, findings on examination, or an opinion as to the cause of appellant's colon condition. The Board has long held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value.⁸ Therefore, these reports are insufficient to establish appellant's claim for compensation as to his condition of colon cancer.

Appellant did not submit any medical evidence in support of his claim as to his alleged condition of liver cancer.⁹ Therefore, he failed to establish a *prima facie* claim for compensation in that regard.

Appellant expressed his strong belief that his colon and liver conditions resulted from his exposure to dioxin and Agent Orange. However, the Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.¹⁰ Neither the fact that the condition became apparent during a period of employment, nor the belief that the condition was caused or aggravated by employment factors or incidents, is sufficient to establish causal relationship.¹¹ Causal relationship must be substantiated by reasoned medical opinion evidence, which it is appellant's responsibility to submit. Therefore, appellant's belief that his conditions were caused by the alleged exposure is not determinative.

The Office advised appellant that it was his responsibility to provide a comprehensive medical report which described his symptoms, test results, diagnosis, treatment, and the doctor's opinion, with medical reasons, on the cause of his condition. Appellant failed to do so. As there is no probative, rationalized medical evidence addressing how appellant's claimed conditions were caused or aggravated by his employment, he has not met his burden of proof in establishing that he sustained an occupational disease in the performance of duty causally related to factors of employment.

CONCLUSION

The Board finds that appellant failed to meet his burden of proof to establish that he developed liver or colon cancer causally related to factors of employment.

⁸ See *Jaja K. Asaramo*, 55 ECAB 200 (2004).

⁹ Although appellant informed the Office that liver cancer was discovered during his surgery for colon cancer, there is no medical report of record which contains a diagnosis of liver cancer.

¹⁰ See *Joe T. Williams*, 44 ECAB 518, 521 (1993).

¹¹ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the October 24, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 15, 2008
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board