United States Department of Labor
Employees' Compensation Appeals Board

L.H., Appellant	)	
and	)	**Docket No. 13-261**
	)	**Issued: April 8, 2013**
U.S. POSTAL SERVICE, POST OFFICE, Raleigh, NC, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Alternate Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On November 9, 2012 appellant filed a timely appeal from an October 10, 2012 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 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 met his burden of proof to establish that he developed an abdominal aortic aneurysm or an embolic condition in the performance of duty.

FACTUAL HISTORY

This is the second appeal before the Board. Appellant, then a 55-year-old mail expeditor, was struck in the back and left leg by a heavy mail bin on December 30, 2006. He filed a claim

[1] 5 U.S.C. § 8101 *et seq.*

for benefits, which OWCP accepted for back contusion; abrasion or friction burn of the left leg, not including the foot, with no infection.

In a Form CA-17 report dated January 23, 2007, Dr. Joseph M. Falsone, a Board-certified family practitioner, indicated that he examined appellant on January 5, 2007 and diagnosed an abdominal aortic aneurysm. He indicated that this condition was related to the December 30, 2006 work incident in which appellant was struck in the back of his lower leg.

By way of factual background, appellant underwent an abdominal aortogram on June 12, 2008 which showed that he had an abdominal aneurysm. He was referred to Dr. Stanley G. Crossland, a specialist in vascular surgery, who stated in a June 12, 2007 report that appellant had developed an abdominal-iliac aneurysm with emboli in both lower extremities. Appellant performed an amputation of the right leg, below the knee, an endovascular aortoiliac repair procedure. Dr. Crossland advised that appellant had a known history of hypertension and noninsulin-dependent diabetes mellitus and stated that he had been diagnosed with a large infrarenal abdominal aortic aneurysm, an iliac aneurysm with a large amount of thrombus, in February 2007. He noted that six to eight weeks previously appellant developed symptoms of chronic embolic phenomena of the left lower extremity as manifested by increasing episodes of calf pain, claudication, inability to ambulate and ischemic rest pain. Dr. Crossland advised that appellant had progressive ischemic emboli changes in his feet, particularly on the right; he noted that appellant had undergone anticoagulant therapy.

In an addendum to the statement of accepted facts dated April 17, 2008, OWCP listed appellant's abdominal aorta and iliac aneurysms as nonwork-related conditions.

In order to determine whether appellant's aneurysm, emboli and subsequent amputations were causally related to the December 20, 2006 work injury and whether he still had residuals from his accepted conditions, OWCP referred appellant to Dr. Joshua A. Eisenberg, who opined that appellant's embolic disease was not related to the December 20, 2006 traumatic injury.

OWCP found a conflict in the medical opinion between Dr. Crossland, who opined that appellant had residuals due to an aneurysm causally related to the December 20, 2006 work injury and Dr. Eisenstein, who opined that appellant's embolic disease was not related to the December 20, 2006 traumatic injury.

On February 24, 2009 OWCP referred appellant to Dr. Maurice R. Roulhac, a Board-certified general surgeon, selected as the impartial medical specialist. In a June 14, 2009 report, Dr. Roulhac found that appellant's December 20, 2006 work injury did not aggravate or contribute to the embolism that resulted in limb amputation. He stated that the aneurysm of the aortoiliac segment was present prior to the injury and did not lead to an immediate emboli. Dr. Roulhac stated that there was no medical literature supporting that a blunt trauma could cause emboli immediately or, as Dr. Crossland asserted, five months later. He advised that the sequences of events were perioperative complications completely unrelated to the work injury and noted that an aneurysm can lead to emboli regardless of trauma. Dr. Roulhac related that the relevant medical literature demonstrated that anticoagulation with coumadin and aneurysm repair can result in emboli to the extremity resulting in amputation. He concluded that appellant's

condition stemmed from a management problem rather than the sequelae from a blunt trauma, given that appellant had an abdominal aortic aneurysm and mural thrombus.

By decision dated August 17, 2009, OWCP terminated appellant's compensation, finding that Dr. Roulhac's opinion represented the weight of the medical evidence. It further found that appellant's aneurysm and subsequent amputations were not causally related to his December 20, 2006 work injury. By decision dated November 5, 2009, OWCP denied modification of the August 17, 2009 decision. In a December 17, 2010 decision,[2] the Board reversed the termination of benefits but also found that appellant did not meet his burden of proof to establish that he developed an abdominal aortic aneurysm or an embolic condition in the performance of duty. The facts of this case as set forth in the Board's December 17, 2010 decision are incorporated by reference.

By letter dated July 18, 2012, appellant requested reconsideration. OWCP received additional medical evidence in support of the claim.

December 30, 2006 radiology reports from Dr. Gintaras Degesys, a Board-certified diagnostic radiologist, stated impressions of negative lumbar spine, calcified ecstatic aorta, large infrarenal abdominal aorta aneurysm, with extension of aneurysmal dilatation into both common iliac arteries, extensive floating thrombus in the posterior aspect of the infrarenal abdominal aortic aneurysm.

In a March 17, 2011 report, Dr. Crossland reiterated his opinion regarding the etiology of appellant's condition, as stated in his February 6, 2008 report. He advised that the injury to appellant's lower back started the progression of aortoiliac clot dislodgement which subsequently produced embolization leading to his progressive damage in both lower extremities, which resulted in his amputations. In addition, Dr. Crossland expressed his disagreement with a report from Dr. Richard L. McCann, Board-certified in general surgery, which is not contained in the instant record.

By decision dated October 10, 2012, OWCP denied modification of the prior decision, after merit review.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] has the burden of establishing that 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, that an injury was sustained 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.[4] These are the essential elements of each and every

[2] Docket No. 10-550 (issued December 17, 2010). The Board granted appellant's petition for reconsideration to preserve his appeal rights and reaffirmed the December 17, 2010 decision by order dated January 25, 2012.

[3] 5 U.S.C. §§ 8101-8193.

[4] *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[5]

To meet his burden of proof claimant must submit medical evidence which establishes that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship is usually rationalized medical 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]

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.[7] Causal relationship must be established by rationalized medical opinion evidence and appellant failed to submit such evidence.

ANALYSIS

The Board finds that appellant did not establish that his abdominal aortic aneurysm or embolic condition arose in the performance of duty. As noted in the prior appeal, OWCP referred him to a referee medical specialist, Dr. Roulhac. In a June 14, 2009 report, Dr. Roulhac determined that appellant's December 20, 2006 work injury did not aggravate or contribute to the embolism which resulted in limb amputation. He found a sequence of events involving perioperative complications from an abdominal aortic aneurysm and mural thrombus that were unrelated to the trauma appellant experienced in the December 20, 2006 work injury.

Appellant requested reconsideration and submitted radiology reports dated December 20, 2006 from Dr. Degesys. The reports listed his diagnoses, but offered no opinion regarding the cause of the conditions. As such, these reports are of diminished probative value on the issue of causal relationship.

The March 17, 2011 report from Dr. Crossland reiterated the physician's opinion that appellant's December 2006 back injury began a progression of aorto-iliac clot dislodgement and embolization, which led to damage to both lower extremities and dual amputations. The Board has held that the mere fact that appellant's symptoms arise during a period of employment or

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

[6] *Id.*

[7] *Id.*

produce symptoms revelatory of an underlying condition does not establish a causal relationship between his condition and his employment factors.[8] Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.[9] Dr. Crossland restated his opinion that gave rise to a conflict in medical evidence that was resolved by Dr. Roulhac. His opinion of Dr. McCann is not shown to be relevant as that physician's report is not of record. The weight of medical opinion is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of the physician's knowledge of the facts of the case, the medical history provided, the care of analysis manifested and the medical rationale expressed in support of stated conclusions.[10] As noted, the weight of medical opinion is represented by the report of Dr. Roulhac, the impartial medical specialist. The Board will affirm the October 10, 2012 decision.

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 that he developed an abdominal aortic aneurysm and an embolic condition in the performance of duty.

[8] *See Richard B. Cissel*, 32 ECAB 1910, 1917 (1981); *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

[9] *See Steven S. Saleh*, 55 ECAB 169 (2003); *Robert G. Morris*, 48 ECAB 238 (1996).

[10] *See Anna C. Leanza*, 48 ECAB 115 (1996).

ORDER

IT IS HEREBY ORDERED THAT the October 10, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 8, 2013
Washington, DC

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

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board