



## **FACTUAL HISTORY**

On January 24, 2013 appellant, then a 59-year-old mine safety and health assistant, filed an occupational disease alleging that she had developed methicillin-resistant staphylococcus aureus or multidrug resistant staphylococcus aureus (MRSA) in the employing establishment field office. OWCP requested additional factual and medical evidence in support of her claim by letter dated January 31, 2013.

Appellant completed a statement in support of her claim noting that an inspector in her office had MRSA and did not follow good hygiene. After the inspector's retirement, the employing establishment used "our normal cleaning lady" to disinfect the facility. On March 30, 2012 the employing establishment promised disinfectants and hand sanitizers which did not appear. On April 4, 2012 appellant was diagnosed with MRSA. She noted that she was an insulin-dependent diabetic and should have been informed of special precautions. Appellant stated that the infection had weakened her immune system and that she currently had an infection in her kidney and urinary tract that was antibiotic resistant. She also submitted excerpts from Mine Safety and Health Talks.

Appellant also responded to OWCP's request for factual information on February 20, 2013 stating that she was exposed to MRSA throughout the Princeton field office. She noted that files traveled to and from the infected agent's desk, to the supervisor's office, and onto her desk. Appellant stated that she shared office areas with the infected coworker including the copy room, copier, inspectors floor, file cabinets, inspectors workstations, entry, and shoe removal area. She noted that it was her job to aid supervisors and inspectors with their paperwork. Appellant described the progression of her infection, which she alleged had weakened her immune system resulting in kidney and urinary tract infections.

The employing establishment responded and stated that an employee, now retired was diagnosed with MRSA and worked for approximately one year and two months in the office with the disease. He reported his condition to his coworkers. The employing establishment noted that appellant operates commonly used equipment such as fax and copy machines on a daily basis and shared some office space and equipment with the infected coworker for approximately one year and two months. It stated that the infected employee used disinfecting wipes and sprays as well as hand sanitizer. The building was cleaned with special instructions on MRSA.

In a report dated March 13, 2013, Dr. Richard Shorter, an osteopath, stated that appellant was treated on March 30, April 4, and May 7, 2012 for an abscess of the right labial area. The culture was positive for MRSA and the diagnosis was a skin abscess of the right inguinal fold. Dr. Shorter stated that exposure to MRSA was increasingly common and could have been transmitted to appellant's skin from any number of surfaces that she might have touched. He concluded that an exact etiology would be impossible to determine. Appellant's tests were negative for MRSA on May 25, 2012. Dr. Shorter noted that she had a long standing history of type 1 diabetes mellitus, which was not optimally controlled and that as such she might have increased susceptibility to infection. He concluded, "Given the high prevalence of MRSA in the community setting it would be impossible to determine the source of [appellant's] infection." Dr. Shorter noted that appellant had a coworker with MRSA, but stated that exposure was likely in any public setting such as a retail store, hospital, or office building.

By decision dated March 28, 2013, OWCP denied appellant's claim finding that the medical evidence had not established a causal relationship between her employment exposure and her infection.

Appellant requested an oral hearing before an OWCP hearing representative on April 23, 2013. In her testimony at the oral hearing held on September 12, 2013, she stated that the employing establishment had not informed her of the active infection in the workplace through the coworker. Appellant stated that she was directed to organize the office, dispose of papers, and clean the infected coworker's work area. She described her coworker's actions stating, "He would come in with sores and pop them and scratch them and never wash his hands or never even try to cover up the areas." Appellant noted that her coworker retired in December 2012. She was diagnosed with MRSA on March 4, 2013.

By decision dated November 26, 2013, the hearing representative found that the medical evidence was insufficient to support a causal relationship between appellant's diagnosed MRSA infection and her workplace exposure.

Following the hearing representative's decision, Dr. Shorter submitted an additional report dated September 25, 2013. He again stated that it would be impossible to definitively determine the source of appellant's infection. Dr. Shorter noted again that MRSA was quite common in the community and that she could have been exposed to the bacteria in any public setting. He then stated, "However, given that [appellant] had a known exposure to MRSA in the workplace for a prolonged period of time and given that this is the only known source of exposure, this would be the most likely source of her infection." Appellant requested reconsideration based on this report on December 12, 2013.

By decision dated March 19, 2014, OWCP reviewed Dr. Shorter's report and denied modification of the prior decisions.

### **LEGAL PRECEDENT**

To establish that an injury was sustained in the performance of duty in an occupational disease claim, 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 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 evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete factual and medical background, showing a causal relationship between the claimed condition, and identified factors. The belief of a claimant that a condition was caused or aggravated by the employment is insufficient to establish causal relation.<sup>3</sup> In addition, in order to be considered rationalized, the medical opinion must be expressed in terms

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<sup>3</sup> *Lourdes Harris*, 45 ECAB 545, 547 (1994).

of a reasonable degree of medical certainty and must be supported by medical reasoning explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors.<sup>4</sup>

### ANALYSIS

Appellant filed an occupational disease claim for an abscess in her inguinal area as causally related to her federal employment. She attributed her MRSA infection to exposures for a period exceeding a year to a coworker with the infection. Appellant described the shared office space and documents with the infected coworker. The employing establishment supported her allegations.

OWCP denied appellant's claim as the medical evidence had not established that her infection resulted from her accepted employment exposures. Dr. Shorter first examined her on March 30, 2012 for an abscess, which cultured positive for MRSA. He diagnosed skin abscess of the right inguinal fold. Dr. Shorter concluded that an exact etiology of appellant's exposure would be impossible to determine. He noted that she had a coworker with MRSA, but noted that exposure was likely in any public setting such as a retail store, hospital, or office building. The report does not support appellant's claim that her MRSA infection was the result of employment exposures. Dr. Shorter suggested that she could have contracted the bacteria in any public building. He submitted an additional report dated September 25, 2013 and again opined that it would be impossible to definitively determine the source of appellant's infection. Dr. Shorter again noted that she has been exposed to the MRSA bacteria in any public setting. He concluded, "However, given that [appellant] had a known exposure to MRSA in the workplace for a prolonged period of time and given that this is the only known source of exposure, this would be the most likely source of her infection."

The September 25, 2013 report of Dr. Shorter is of limited probative value in establishing that appellant's diagnosed occupational disease is related to her employment. Dr. Shorter did not explain how or why he believed that she developed MRSA due to her employment exposure. He merely indicated that there was a possible connection as it was the only known exposure. Dr. Shorter continued to emphasize that MRSA was common in the community and that appellant had other exposure sources.<sup>5</sup> Without medical opinion evidence addressing the mechanics by which her exposure to papers and equipment used in common with her infected coworker would have resulted in the diagnosed condition and offering a clear opinion that this exposure was the cause of her disease process, this report is insufficient to meet her burden of proof.

The Board finds that appellant has not submitted the necessary medical opinion evidence to meet burden of proof to establish a causal relationship between her workplace exposure and her diagnosis of MRSA. 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.

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<sup>4</sup> C.W., Docket No. 11-754 (issued October 18, 2011).

<sup>5</sup> C.S., Docket No. 13-203 (issued April 24, 2014).

**CONCLUSION**

The Board finds that appellant not met her burden of proof in establishing that she developed an antibiotic staph infection due to exposures during her federal employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 19, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 14, 2015  
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board