

Federal Employees' Compensation Act³ (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 has met his burden of proof to establish disability from work beginning February 18, 2019 causally related to his accepted March 7, 2016 employment injury.

FACTUAL HISTORY

On March 9, 2016 appellant, then a 56-year-old aircraft launching and arresting gear mechanic, filed a traumatic injury claim (Form CA-1) alleging that on March 7, 2016 he sustained multiple facial fractures, cuts, and contusions while in the performance of duty when he was struck by the lid of a shipping box that exploded. He stopped work on March 7, 2016. OWCP accepted the claim for an unspecified closed fracture of facial bones. It subsequently expanded acceptance of the claim to include a closed fracture of nasal bones, a closed fracture of other specified skull and facial bones (septum), bilateral tinnitus, and chronic post-traumatic stress disorder (PTSD). OWCP paid appellant wage-loss compensation on the supplemental rolls from April 21 through June 3, 2017.⁴

In a claim for compensation (Form CA-7) dated February 7, 2018, the employing establishment advised that appellant had resumed limited-duty work on July 3, 2017

In a report dated January 10, 2019, Dr. Karim Ghobrial-Sedky, a Board-certified psychiatrist, related that he and his colleagues had been treating appellant for depression, anxiety, and PTSD following a March 7, 2016 employment injury. He advised that appellant had continued nightmares, PTSD, loss of sleep, depression. Dr. Ghobrial-Sedky related, “[Appellant] has been complaining of chest pains and nausea in the morning from going to work and has been stressed by the situation.” He recommended that he stop work due to his increased symptoms and “go on worker[s] compensation.”

On March 14, 2019 appellant filed a Form CA-7 claiming disability for the period February 18 through March 1, 2019.

In a March 21, 2019 development letter, OWCP requested that appellant submit a comprehensive report from his treating physician supported by objective findings explaining how his condition had worsened such that he was unable to work beginning February 18, 2018. It afforded him 30 days to submit the requested information.

Appellant continued to file CA-7 forms requesting wage-loss compensation for disability.

In a report dated April 18, 2019, Dr. Ghobrial-Sedky noted that on March 7, 2016 a plastic container filled with flammable aerosol cans, propane, and metal pipes had exploded, injuring

³ 5 U.S.C. § 8101 *et seq.*

⁴ By decision dated March 6, 2018, OWCP granted appellant a schedule award for four percent binaural hearing loss. The period of the award ran for eight weeks from January 3 to February 27, 2018.

appellant and a coworker. Appellant had been admitted for three days to the hospital and underwent nasal and sinus surgeries. Dr. Ghobrial-Sedky discussed his diagnosis of depression and chronic PTSD due to the trauma. He related that appellant had continued nightmares, insomnia, and panic attacks affecting his physical recovery subsequent to resuming work on July 3, 2017. Dr. Ghobrial-Sedky noted that he had been moved from the work location where the incident had occurred, but was told that the move was temporary. Appellant related that his PTSD had worsened when he visited his former work location and a manager forced him to leave. Dr. Ghobrial-Sedky related “He reports PTSD related to going back to his old job. He also has anxiety related to the uncertainty of the future.” Dr. Ghobrial-Sedky recommended a review of appellant’s records to better understand the extent of his injuries and possible neuropsychological testing for memory and cognitive issues. He found that appellant could not return to his work location due to PTSD and depression.

By decision dated June 19, 2019, OWCP denied appellant’s claim for wage-loss compensation beginning February 18, 2019 and continuing.

In a report dated October 7, 2019, Dr. Sara A. Epstein, a Board-certified psychiatrist, discussed appellant’s history of an injury on March 7, 2016 when hazardous materials exploded. She noted that he had been relocated to another worksite, but not provided with a desk or a place to sit. Appellant had to tell his supervisor if he left the room even for the bathroom. He had returned to his prior work location, but his supervisor made him leave. Dr. Epstein diagnosed PTSD, major depression, status post facial trauma with multiple surgeries, carpal tunnel syndrome, bilateral hernias, and tinnitus. She opined that appellant could not work at the location where the explosion occurred to prevent an aggravation of PTSD. Dr. Epstein advised that he was unable to currently work due to his preoccupation with past trauma, depression, weight loss, fatigue, difficulty concentrating, slowness of thought, and feelings of worthlessness.

Regarding his PTSD, Dr. Epstein noted that, in March 2017, the physicians treating appellant for his physical injuries had released him to resume work, but that his mental health providers had found that he could not travel or work where the injury had occurred. Management had provided him with conflicting information about who should handle his reasonable accommodation claim. Appellant was told that there were no positions available for him and “literally pushed out of a retirement luncheon” at his old work location. In August 2018, he had been released to resume work at his old work location. In December 2018, appellant had declined an offer of a voluntary separation. In January 2019, his physician recommended that he receive workers’ compensation benefits as his condition was “escalating.” Dr. Epstein related that, due to “all the conflicting reports and opinions, claimant felt overwhelmed, confused about who was right, and even more hypervigilant than after the explosion, in that he felt an urgent need to be on top of everyone’s actions in his case all the time, lest he lose everything.”

Dr. Epstein opined that appellant’s feelings of worthlessness had increased since he was transferred to another location without a desk and “being forcibly barred from a friend’s retirement luncheon....” She listed incidents that had occurred with management from June 2017 to February 2019. Dr. Epstein related that appellant had “spent the better part of two years in an office where he had no desk, with no assignments, then told he had to get out -- which effectively destroyed such little self-esteem as he had left.” She noted that appellant feelings of depression and worthlessness “began after his injury [of] March 2016, increased as the powers that be somehow could not find him any form of employment and went on to walk him toward

retirement/separation.... To him, it appears he was punished for sustaining a serious injury.” Dr. Epstein opined that appellant was totally disabled from employment.

On January 14, 2020 counsel requested reconsideration.

By decision dated February 3, 2020, OWCP denied modification of its June 19, 2019 decision. It found that Dr. Epstein had attributed his condition to intervening incidents and administrative matters rather than the March 7, 2016 employment injury.

LEGAL PRECEDENT

A recurrence of disability means an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition, which resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.⁵ Recurrence of disability also means an inability to work that takes place when a light-duty assignment made specifically to accommodate an employee’s physical limitations due to his work-related injury or illness is withdrawn or when the physical requirements of such an assignment are altered so that they exceed his established physical limitations.⁶

A recurrence should be reported on Form CA-2a if that recurrence causes the employee to lose time from work and incur a wage loss, or if the employee experiences a renewed need for treatment after previously being released from care.⁷ However, a notice of recurrence should not be filed when a new injury, new occupational disease, or new event contributing to an already existing occupational disease has occurred.⁸ In these instances, the employee should file Form CA-1 or CA-2.⁹

The Federal (FECA) Procedure Manual provides additional guidance as to when a Form CA-2a should be filed. OWCP’s procedures provide in relevant part that a recurrence of disability does not include a work stoppage caused by “[a] condition which results from a new injury, even if it involves the same area of the body previously injured, or by renewed exposure to the causative agent of a previously suffered occupational disease.”¹⁰ If a new work-related injury or exposure occurs, Form CA-1 or CA-2 should be completed accordingly.¹¹

When an injury arises in the course of employment, every natural consequence that flows from that injury likewise arises out of the employment, unless it is the result of an independent

⁵ 20 C.F.R. § 10.5(x).

⁶ *Id.*

⁷ *Id.* at § 10.104(a).

⁸ *Id.*

⁹ *Id.*

¹⁰ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3c(5) (June 2013).

¹¹ *Id.*

intervening cause attributable to the claimant's own intentional misconduct.¹² Thus, a subsequent injury, be it an aggravation of the original injury or a new and distinct injury, is compensable if it is the direct and natural result of a compensable primary injury.¹³

The Board has recognized PTSD as a compensable consequential injury under circumstances where a certain triggering event has been medically demonstrated to have caused a reawakening or exacerbation of PTSD symptoms.¹⁴

ANALYSIS

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

OWCP paid appellant wage-loss compensation for disability from April 21 through June 3, 2017 due to his accepted March 7, 2016 employment injury. Appellant returned to full-time modified employment on July 3, 2017. He stopped work and filed claims for compensation beginning February 18, 2019 due to a worsening of his accepted PTSD. OWCP denied appellant's claims, finding that the medical evidence had attributed his condition to intervening incidents that had occurred subsequent to the March 7, 2016 employment injury and to administrative matters unrelated to the accepted employment injury.

On April 18, 2019 Dr. Ghobrial-Sedky discussed appellant's history of an injury on March 7, 2016 when a container exploded. He diagnosed depression and chronic PTSD due to the accepted employment injury. Dr. Ghobrial-Sedky advised that appellant's PTSD had increased after he visited his former work location and a manager instructed him to leave. Appellant was also told that his move from the work location where the incident occurred was temporary and that he would be returned to his former workplace. Dr. Ghobrial-Sedky found that appellant could not return to his work location due to his PTSD.

In an October 7, 2019 report, Dr. Epstein reviewed appellant's history of injury. She found that he was currently unable to work due to his preoccupation with the trauma from the employment injury, depression, and feelings of worthlessness. Dr. Epstein's diagnoses included PTSD and major depression. She noted that appellant's condition had worsened when he returned to his prior work location for a retirement luncheon, but was forced to leave. Dr. Epstein advised that he had worked for two years without a desk or assignments, and that being told to leave had increased his sense of worthlessness.

Both Dr. Ghobrial-Sedky and Dr. Epstein found that appellant's PTSD had worsened after he had returned to the work location where the employment-related March 7, 2016 explosion had occurred, but was instructed to leave by the employing establishment. As noted, the Board has recognized PTSD as a potential compensable consequential injury under circumstances where a certain triggering event has been medically demonstrated to have caused a reawakening or

¹² See *C.H.*, Docket No. 20-0228 (issued October 7, 2020); *Mary Poller*, 55 ECAB 483, 487 (2004).

¹³ See *C.W.*, Docket No. 19-1747 (issued September 2, 2020); *Susanne W. Underwood (Randall L. Underwood)*, 53 ECAB 139 (2001).

¹⁴ See *B.I.*, Docket No. 18-0253 (issued August 2, 2018); *P.H.*, Docket No. 15-0482 (issued August 4, 2015).

exacerbation of PTSD symptoms.¹⁵ The Board has further held that, in cases involving a diagnosis of PTSD, the provisions of Chapter 2.1500.3c(5) of OWCP's procedures requiring the filing of a new claim with exposure to new work factors will not always be applicable.¹⁶ OWCP, however, has not adjudicated whether appellant sustained a consequential injury through an exacerbation of his accepted PTSD. The Board, therefore, finds that the case must be remanded for OWCP to evaluate the medical evidence to determine if he sustained a consequential condition resulting from his March 7, 2016 employment injury and whether such a condition caused disability on or after February 18, 2019.¹⁷ After such further development as deemed necessary, it shall issue a *de novo* decision.

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the February 3, 2020 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this opinion of the Board.

Issued: December 22, 2020
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board

¹⁵ *See id.*

¹⁶ *See supra* note 14.

¹⁷ *C.W.*, Docket Nos. 18-1764 and 19-0709 (issued August 27, 2020).