

ISSUE

The issue is whether appellant has met his burden of proof to establish that he sustained heart attacks in 2003 and 2007 as a consequence of his accepted employment conditions.

FACTUAL HISTORY

This case has previously been before the Board.⁴ The facts and circumstances of the case as set forth in the Board's prior decisions are incorporated herein by reference. The relevant facts are as follows.

In July 1991 OWCP accepted that appellant, then a 37-year-old environmental protection specialist, sustained an anxiety disorder and an episode of medication dependency, resolved. In accepting this condition, it acknowledged that appellant had experienced stress due to his job duties which included establishing required record keeping procedures, reconciling on-hand quantities of hazardous substances with inventory records, and receiving, storing, and processing hazardous substances on a daily basis.

Appellant stopped work on July 2, 1990 and later returned to light-duty work.

Appellant subsequently claimed that his angina had been aggravated by his accepted anxiety disorder. On June 3, 1996 he stopped work when his claim was accepted for a consequential temporary aggravation of angina. In mid-2003, appellant had a heart attack and, in August 2003, he underwent triple bypass surgery. In late 2007, he had a second heart attack and in November 2007 and January 2008, he underwent additional surgical procedures, including a left heart catheterization and a stent of the saphenous vein graft. Appellant claimed that his 2003 and 2007 heart attacks were causally related to his accepted work conditions.⁵

In support of his claim, appellant had submitted a March 10, 2008 report of Dr. David H.S. Iansmith, an attending Board-certified cardiologist, and a March 17, 2009 report of Dr. Frank A. McGrew, III, an attending Board-certified cardiologist. In August 12 and December 3, 2008 reports, Dr. Matthew Smolin, a Board-certified cardiologist, serving as an OWCP referral physician, determined that appellant's accepted work factors had not contributed to his subsequent two heart attacks.

By decision dated February 6, 2009, OWCP denied appellant's claim, finding that he had failed to submit sufficient medical evidence to establish that his heart attacks in 2003 and 2007 were due to his accepted conditions. Appellant requested reconsideration and, by decision dated June 4, 2009, OWCP denied modification of the February 6, 2009 decision.

⁴ Docket No. 09-1864 (issued May 7, 2010); Docket No. 12-0906 (issued February 15, 2013); Docket No. 14-0743 (issued September 11, 2014); and Docket No. 16-1582 (issued May 1, 2017).

⁵ At the time of his 2003 and 2007 heart attacks, appellant was not working for the employing establishment.

Appellant appealed to the Board and, by decision dated May 7, 2010,⁶ the Board affirmed OWCP's February 6 and June 4, 2009 decisions.

Appellant requested reconsideration of his claim and submitted a February 2, 2011 letter from Dr. McGrew who opined that appellant's angina pectoris and anxiety disorder were related and were contributing factors to his 2003 and 2007 heart attacks. He also submitted two January 28, 2011 reports from Dr. Robert Buchalter, an attending Board-certified psychiatrist, who also opined that appellant's anxiety disorder contributed to his heart attack.

By decision dated May 23, 2011, OWCP denied modification of its prior decisions.

Appellant again requested reconsideration and submitted a June 21, 2011 report from Dr. McGrew who indicated that appellant had a stress anxiety disorder, which aggravated and increased his episodes of angina. Dr. McGrew noted that, based on the affidavit of appellant's job description, his work with the employing establishment was stress inducing and constituted contributing factors to his health.

By decision dated November 16, 2011, OWCP denied modification of the May 23, 2011 decision.

Appellant appealed to the Board and, by decision dated February 15, 2013,⁷ the Board affirmed the November 16, 2011 decision.

On November 11, 2013 appellant, through counsel, requested reconsideration of OWCP's denial of his claim and submitted an October 30, 2013 report from Dr. McGrew who again opined that appellant's accepted condition of aggravation of angina was a contributing factor in the development and occurrence of his heart attacks.

By decision dated November 18, 2013, OWCP denied appellant's request for reconsideration of the merits of his claim pursuant to 5 U.S.C. § 8128(a).

Appellant appealed to the Board and, by decision dated September 11, 2014,⁸ the Board set aside OWCP's November 18, 2013 decision noting that OWCP improperly denied appellant's request for reconsideration of the merits of his claim pursuant to 5 U.S.C. § 8128(a). The Board remanded the case to OWCP and directed it to conduct a proper merit review of his claim pursuant to 5 U.S.C. § 8128(a), to be followed by a merit decision regarding his claim that his heart attacks in 2003 and 2007 were related to his accepted work conditions.

On remand OWCP further developed the medical evidence of record. In December 2015, it referred appellant to Dr. Aftab Shaik, a Board-certified cardiologist, who submitted reports dated December 31, 2015, March 17, and June 3, 2016. Dr. Shaik advised that tobacco abuse and hypertension and being overweight were the main risk factors. In March 2016, OWCP referred appellant to Dr. Melvin Goldin, a Board-certified psychiatrist, who submitted an April 29, 2016

⁶ *Supra* note 4.

⁷ *Supra* note 4.

⁸ *Supra* note 4.

report. Dr. Goldin opined that there was no continuing personality disorder nor mental condition related to his work injury.

By decision dated June 13, 2016, OWCP determined that appellant failed to meet his burden of proof to establish that his heart attacks were due to his accepted work conditions. Appellant appealed to the Board and, by decision dated May 1, 2017,⁹ the Board affirmed the June 13, 2016 decision.

Appellant, through counsel, requested reconsideration of his claim and submitted a May 2, 2017 report from Dr. Mark Luttrell, a Board-certified psychiatrist, who noted that appellant was currently under his care for psychotherapy treatment. He also submitted a May 2, 2017 treatment note from Dr. Luttrell in which he diagnosed depressive disorder and anxiety.

In a May 10, 2017 report, Dr. James Klemis, a Board-certified cardiologist, indicated that appellant had a history of coronary artery disease with prior bypass surgery and prior percutaneous intervention. He noted that appellant had chronic angina exacerbated by anxiety and indicated that there had been a clear correlation between appellant's prior stressful job and his coronary disease as was well documented by Dr. McGrew who had followed him since 2009. Dr. Klemis indicated that he reviewed a note from Dr. McGrew that clearly indicated that appellant met the criteria for disability and which indicated that his coronary disease likely related, in at least a large degree, to his prior very stressful job.

In a July 3, 2017 report, Dr. Nadish Garg, a Board-certified cardiologist, indicated that appellant had a history of myocardial infarction in 2003 and 2007, as well as a history of hypertension likely related to stress and anxiety, prior tobacco abuse, severe anxiety disorder, and medication dependence. He reported that previous evaluations by Dr. McGrew had noted that stress/anxiety had made a significant contribution to appellant's symptoms of angina, shortness of breath with exertion, previous myocardial infarction, and coronary artery disease. Dr. Garg indicated that, upon review of the medical evidence and his own examination on July 3, 2017, he concurred with Dr. McGrew that recurrent angina and exertional shortness of breath was related to severe stress and anxiety.

By decision dated November 1, 2017, OWCP found that appellant had not met his burden of proof to establish that he sustained heart attacks in 2003 and 2007 as a consequence of his accepted employment conditions.

Appellant, through counsel, requested reconsideration of the November 1, 2017 decision and submitted a January 26, 2018 report of Dr. Jim Pang, a Board-certified psychiatrist, who noted that he supported the diagnoses and findings set forth by Dr. McGrew, which indicated that appellant's history of stress anxiety disorder aggravated and increased his episodes of angina and was a contributing factor to his 2003 and 2007 heart attacks. Dr. Pang noted that he also concurred that appellant's continuing anxiety reaction necessarily continued to aggravate and compromise his cardiovascular condition. He found that appellant was totally and permanently disabled.

In a February 12, 2018 report, Dr. Garg indicated that appellant's cardiac condition (coronary artery disease and hypertension) was attributed to severe anxiety disorder. He agreed

⁹ *Supra* note 4.

with Dr. McGrew and Dr. Buchalter that severe stress “was deemed to be the cause of [appellant’s] cardiac condition.” Dr. Garg indicated that the relationship of stress to appellant’s heart condition was ascertained by clinical history and physical examination at time of his initial evaluation and subsequent follow-up evaluations. He requested that appellant’s application for compensation be reconsidered and noted, “I believe that his employment was [the] cause of his previous heart attacks and is contributing to the current cardiac condition.”

By decision dated June 15, 2018, OWCP denied modification of the November 1, 2017 decision.

Appellant, through counsel, requested reconsideration and submitted a July 31, 2018 report from Dr. Pang who maintained that appellant still had post-traumatic stress disorder after stopping work for the employing establishment. Dr. Pang indicated that appellant’s acute reaction to stress and his angina collectively caused his cardiac system to be overworked and caused an increase in blood pressure. He concluded that appellant’s acute stress reaction was a factor in his 2003 and 2007 heart attacks.

By decision dated November 27, 2018, OWCP denied modification of the June 15, 2018 decision.

Appellant, through counsel requested reconsideration and submitted a February 11, 2019 report of Dr. Pang, which was substantially similar to that contained in his January 26, 2018 report. He again noted that he supported the diagnoses and findings put forth by Dr. McGrew, which indicated that appellant’s history of stress anxiety disorder aggravated and increased his episodes of angina and was a contributing factor to his 2003 and 2007 heart attacks.

By decision dated February 20, 2020, OWCP denied modification of the November 27, 2018 decision.

LEGAL PRECEDENT

The claimant bears the burden of proof to establish a claim for a consequential injury.¹⁰ As part of this burden, he or she must present rationalized medical opinion evidence, based on a complete factual and medical background, establishing causal relationship. The opinion must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship of the diagnosed condition and the specific employment factors or employment injury.¹¹

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical evidence.¹² Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was

¹⁰ *V.K.*, Docket No. 19-0422 (issued June 10, 2020); *A.H.*, Docket No. 18-1632 (issued June 1, 2020); *I.S.*, Docket No. 19-1461 (issued April 30, 2020).

¹¹ *K.W.*, Docket No. 18-0991 (issued December 11, 2018).

¹² *G.R.*, Docket No. 18-0735 (issued November 15, 2018).

caused or aggravated by employment factors or incidents, is sufficient to establish causal relationship.¹³

In discussing the range of compensable consequences, once the primary injury is causally connected with the employment, the question is whether compensability should be extended to a subsequent injury or aggravation related in some way to the primary injury.¹⁴ The basic rule is that, a subsequent injury, whether 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.¹⁵ 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 intervening cause attributable to the claimant's own conduct.¹⁶ 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 consequence of a compensable injury.¹⁷

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish that he sustained heart attacks in 2003 and 2007 as a consequence of his accepted employment conditions.

In January 26, 2018 and February 11, 2019 reports, Dr. Pang noted that he supported the diagnoses and findings put forth by Dr. McGrew, which indicated that appellant's history of stress anxiety disorder aggravated and increased his episodes of angina and was a contributing factor to his 2003 and 2007 heart attacks. In a July 31, 2018 report, he maintained that appellant still had post-traumatic stress disorder after stopping work for the employing establishment. Dr. Pang indicated that appellant's acute reaction to stress and his angina collectively caused his cardiac system to be overworked and caused an increase in blood pressure. He concluded that appellant's acute stress reaction was a factor in his 2003 and 2007 heart attacks.

The Board finds however, that Dr. Pang's reports are of limited probative value regarding appellant's claim for consequential heart attacks in 2003 and 2007, because he did not provide his own adequate medical rationale in support of his opinion on causal relationship. Dr. Pang did not describe appellant's accepted work conditions in any detail or adequately explain how they could have contributed to the occurrence of his 2003 and 2007 heart attacks supported by the record. He noted that his review of the medical records, including the reports of Dr. McGrew, led him to his conclusion that work conditions contributed to the occurrence of appellant's 2003 and 2007 heart attacks, but he did not provide any notable description of the medical records or explain how they supported his conclusion on causal relationship. The provision of medical rationale is especially necessary in the present case as appellant had not been exposed to stress in the workplace since he stopped work in June 1996. Dr. Pang further failed to explain why appellant's notable nonwork

¹³ *Id.*

¹⁴ *K.S.*, Docket No. 17-1583 (issued May 10, 2018).

¹⁵ *Id.*

¹⁶ *A.M.*, Docket No. 18-0685 (issued October 26, 2018); *Mary Poller*, 55 ECAB 483, 487 (2004).

¹⁷ *A.T.*, Docket No. 18-1717 (issued May 10, 2019); *Susanne W. Underwood (Randall L. Underwood)*, 53 ECAB 139 (2001).

risk factors, such as hypertension, overweight status, and past tobacco abuse, were not the sole cause of his 2003 and 2007 heart attacks. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how a given medical condition has an employment-related cause.¹⁸ Therefore, Dr. Pang's reports are insufficient to establish appellant's claim.

In a February 12, 2018 report, Dr. Garg indicated that the relationship of stress to appellant's heart condition was ascertained by clinical history and physical examination at the time of his initial evaluation and subsequent follow-up evaluations. He requested that appellant's application for compensation be reconsidered and noted, "I believe that his employment was [the] cause of his previous heart attacks and is contributing to the current cardiac condition." In a July 3, 2017 report, Dr. Garg reported that previous evaluations by Dr. McGrew had noted that stress/anxiety had made a significant contribution to appellant's symptoms of angina, shortness of breath with exertion, previous myocardial infarction, and coronary artery disease. He indicated that, upon review of the medical evidence and his own examination on July 3, 2017, he concurred with Dr. McGrew that recurrent angina and exertional shortness of breath was related to severe stress and anxiety. However, Dr. Garg's opinions in these reports also are of limited probative value regarding appellant's claim for consequential heart attacks in 2003 and 2007 because he did not provide his own adequate medical rationale in support of his opinion on causal relationship.¹⁹ Therefore, the July 3, 2017 and February 12, 2018 reports of Dr. Garg are insufficient to establish appellant's claim.

Appellant also submitted a May 2, 2017 report from Dr. Luttrell who noted that appellant was currently under his care for psychotherapy treatment, as well as a May 2, 2017 treatment note from Dr. Luttrell in which he diagnosed depressive disorder and anxiety. In a May 10, 2017 report, Dr. Klemis indicated that appellant had a history of coronary artery disease with prior bypass surgery and prior percutaneous intervention. He indicated that he reviewed a note from Dr. McGrew that clearly indicated that appellant met the criteria for disability and which indicated that his coronary disease likely related, in at least a large degree, to his prior very stressful job. The Board finds that these reports are of no probative value with regard to appellant's consequential injury claim because they do not provide an opinion that appellant sustained heart attacks in 2003 and 2007 as a consequence of his accepted employment conditions. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.²⁰ Therefore, these reports are insufficient to establish appellant's claim.

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.

¹⁸ See *T.T.*, Docket No. 18-1054 (issued April 8, 2020); *Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

¹⁹ See *id.*

²⁰ See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that he sustained heart attacks in 2003 and 2007 as a consequence of his accepted employment conditions.

ORDER

IT IS HEREBY ORDERED THAT the February 20, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 27, 2021
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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