United States Department of Labor
Employees' Compensation Appeals Board

S.O., Appellant	)	
and	)	**Docket No. 21-0002**
	)	**Issued: April 29, 2021**
U.S. POSTAL SERVICE, POST OFFICE, Bowling Green, KY, Employer	)	

Appearances:
Alan J. Shapiro, Esq., for the appellant[1]
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge

JURISDICTION

On October 1, 2020 appellant, through counsel, filed a timely appeal from a May 20, 2020 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (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 a left eye vitreous hemorrhage causally related to the accepted October 2, 2019 employment incident.

[1] In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

[2] 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On October 25, 2019 appellant, then a 57-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on October 2, 2019 his eye hemorrhaged and he lost vision when he bent over to deliver a package. On the reverse side of the claim form appellant's supervisor contended that appellant was not injured in the performance of duty and that he did not report an injury or illness. Appellant stopped work on October 9, 2019.

In support of his claim, appellant submitted a report dated October 3, 2019 by Dr. Marcus J. Solomon, a Board-certified ophthalmologist. Dr. Solomon indicated that appellant noticed a blood-like tear in his oculus sinister, left eye, and noted that appellant believed that a new hemorrhage occurred in that eye on October 2, 2019. Appellant related that the hemorrhage had cleared up some since the onset, but was still covering half of his visual acuity. Dr. Solomon diagnosed left eye vitreous hemorrhage and preexisting bilateral proliferative diabetic retinopathy.

In a development letter dated November 7, 2019, OWCP advised appellant that additional factual and medical evidence was necessary to establish his claim. It requested that he submit a narrative medical report from his treating physician, which provided a medical explanation as to how the reported work incident caused or aggravated a medical condition. OWCP afforded appellant 30 days to submit the necessary evidence.

In response, appellant submitted an undated note from Dr. Solomon, received by OWCP on December 10, 2019, indicating that appellant would require another surgery on December 5, 2019 to remove the oil bubble following vitrectomy to remove blood out of his left eye. Dr. Solomon related that appellant would require four to six weeks off of work and that he would not be able to drive or lift during the healing process.

By decision dated December 31, 2019, OWCP accepted that the October 2, 2019 employment incident occurred as alleged, but denied appellant's claim, finding that the medical evidence of record did not provide a medical diagnosis causally related to the accepted incident.

On April 15, 2020 appellant requested reconsideration of OWCP's December 31, 2019 decision and submitted additional medical evidence.

In a letter dated November 15, 2019, Dr. Solomon related that appellant has diabetic bilateral retinopathy, which did not alter his ability to perform his daily work activities. However, on October 2, 2019 appellant suffered a vitreous hemorrhage, which was associated with heavy lifting at work. He further noted that the specific weight and strain contributed to the bleed in his eye.

In a February 5, 2020 amendment to his November 15, 2019 letter, Dr. Solomon related that appellant reported lifting a heavy box at work and that the vitreous hemorrhage occurred after this event. He stated that the Valsalva maneuver was likely a contributing factor to the event.

By decision dated May 20, 2020, OWCP modified, its December 31, 2019 decision to find the medical evidence of record was sufficient to establish a diagnosed condition. However, the claim remained denied as the evidence of record was insufficient to establish that his diagnosed vitreous hemorrhage was causally related to the October 2, 2019 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] has the burden of proof to establish the essential elements of his or her claim, including that the individual is an employee of the United States within the meaning FECA, that the claim was timely filed within the applicable time limitation period of FECA,[4] that an injury[5] was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.[6] These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[7]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged. Second component is whether the employment incident caused a personal injury and can be established only by medical evidence.[8]

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.[9] The opinion of the physician must be based on a complete factual and medical background of the employee, 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 specific employment factors identified by the employee.[10]

In any case where a preexisting condition involving the same part of the body is present and the issue of causal relationship, therefore, involves aggravation, acceleration, or precipitation,

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[3] *Id*.

[4] *F.H.*, Docket No.18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

[5] OWCP's regulations define a traumatic injury as a condition of the body caused by a specific event or incident, or series of events of incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected. 20 C.F.R. § 10.5(ee).

[6] *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr*., 40 ECAB 312 (1988).

[7] *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

[8] *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

[9] *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

[10] *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.[11]

ANALYSIS

The Board finds that appellant has not established that his left eye vitreous hemorrhage was causally related to the accepted October 2, 2019 employment incident.

In his initial report dated October 3, 2019, Dr. Solomon indicated that appellant noticed a blood like tear in his left eye on October 2, 2019. He diagnosed left eye vitreous hemorrhage and preexisting bilateral proliferative diabetic retinopathy; however, he did not provide an opinion regarding the cause of the diagnosed conditions. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition or disability is of no probative value on the issue of causal relationship.[12] Therefore, this report is insufficient to establish the claim.

In a letter dated November 15, 2019, Dr. Solomon noted appellant's preexisting history of bilateral proliferative diabetic retinopathy. In addition, he related that on October 2, 2019 appellant sustained a vitreous hemorrhage, which was associated with heavy lifting at work. Dr. Solomon further noted that the specific weight and strain attributed to the bleed in his eye. However, he failed to provide a rationalized medical opinion, which differentiated between the effects of the preexisting condition and the accepted incident in causing appellant's left eye hemorrhage. The need for a rationalized medical opinion was particularly important because appellant had preexisting bilateral diabetic retinopathy condition.[13] This report is, therefore, insufficient to establish the claim.

Similarly, in the February 5, 2020 amendment to his prior report, Dr. Solomon again noted that heavy lifting was likely a contributing factor to appellant's vitreous hemorrhage. While he noted that the Valsalva maneuver "likely" was a contributing factor to his eye hemorrhage, he did not explain how this mechanism could have physiologically caused the diagnosed conditions. The Board has held that medical opinions that are speculative or equivocal are of diminished probative value.[14] Moreover, the Board has held that generalized statements do not establish causal relationship as they are unsupported by adequate medical rationale explaining the pathophysiologic mechanism by which the accepted employment duties caused, aggravated, or accelerated the employee's diagnosed medical conditions.[15] Thus, the Board finds that Dr. Solomon's amendment is insufficiently rationalized to the claim.

[11] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *see L.C.*, supra note 6; *R.D.*, Docket No. 18-1551 (issued March 1, 2019).

[12] *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

[13] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013). *J.G.*, Docket No. 20-0009 (issued September 28, 2020). *See also R.D.*, *supra* note 11.

[14] *W.R.*, Docket No. 20-1101 (issued January 26, 2021); *H.A.*, Docket No. 18-1455 (issued August 23, 2019).

[15] *See A.P.*, Docket No. 19-0224 (issued July 11, 2019); *K.W.*, Docket No. 10-98 (issued September 10, 2010).

As the medical evidence of record is insufficient to establish causal relationship between appellant's eye hemorrhage and the accepted employment incident, the Board finds that appellant has not met his burden of proof.

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 his left eye vitreous hemorrhage was causally related to the accepted October 2, 2019 employment incident.

ORDER

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

Issued: April 29, 2021
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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