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U.S. DEPARTMENT OF LABOR

OFFICE OF WORKERS' COMP PROGRAMS  
PO BOX 8300 DISTRICT 1 BOS  
LONDON, KY 40742-8300  
Phone: (857) 264-4600

April 21, 2015

Date of Injury:  
Employee:

NOTICE OF DECISION

Dear MS,

This decision is rendered pursuant to the instructions set forth in the decision dated September 10, 2013 of the Branch of Hearings and Review. Pursuant to the instructions of the hearing decision, your case was remanded to the Office of Workers' Compensation Programs (hereinafter "the Office") with instructions to refer the case for a record review with an independent medical examiner. Upon completion of the additional development per the hearing decision instructions, it has been determined that the evidence of record is sufficient to establish the requisite causal relationship between compensable factors of employment and the death of the decedent, Mr. under the Federal Employees' Compensation Act (FECA). Accordingly, your claim for survivor benefits in this program is hereby accepted.

Entitlement to coverage of survivor benefits is governed by the Federal Employees' Compensation Act (FECA) at 5 U.S.C. §8133. To establish entitlement to such benefits, the record evidence must establish at the deceased federal employee suffered injuries in the performance of his or her federal duties, and that such injuries caused the death of the employee. The survivor, in this instance, has the burden of proof by reliable, probative, and substantial evidence to establish that the death of the employee (hereinafter "decedent") resulted from the performance of his or her duties in their federal employment.

The sole issue in this determination is whether the record medical evidence is sufficiently reliable and probative to establish a causal relationship between the compensable factors of employment as found in the hearing decision (above) and the death of the decedent.

The evidence of record establishes that, on the date of death, the decedent was a federal employee. He was employed by the as a at the With your claim for survivor's benefits, you submitted a medical report dated signed by M.D. Dr. report stated in pertinent part that the cause of death was rupture of an intracranial aneurysm. Dr. noted also a history of work-related stress from the decedent having assumed a new supervisory position. By letter from the Office dated you were provided the opportunity to perfect your

*If you have a disability (a substantially limiting physical or mental impairment), please contact our office/claims examiner for information about the kinds of help available, such as communication assistance (alternate formats or sign language interpretation), accommodations and modifications.*

claim by submission of additional evidence requested in the letter. Additional evidence was received into the record and considered by the Office. By decision dated March 31, 2011, your claim for survivor benefits was denied on grounds that no accepted factors of employment were demonstrated by the record evidence as required by the FECA to demonstrate an injury in the performance of duty.

You disagreed with the decision of March 31, 2011 and invoked your right of appeal. You appealed to the Branch of Hearings and Review. A hearing was conducted on April 12, 2012. By decision of hearing representative dated July 24, 2012, the prior decision of the Office was vacated and your case was remanded to the Office for further development.

In reviewing your case, the hearing representative found that the evidence established compensable factors of employment under the FECA as required to demonstrate an injury in the performance of duty. In pertinent part, the hearing representative stated as follows:

*"In this case the issue to determine is whether Mr. death was, in any way, directly caused by his work duties, or was contributed to by way of aggravation or acceleration of any underlying condition or by way of a precipitation of a condition. This is not a question as whether the claimant had developed an emotional condition as the result of his work but whether the requirements of his job, in any way, contributed to his death.*

*I find the following are established compensable factors of employment.*

- His concerns and fear that his work would not get done if he took too much time off work for his medical conditions.*
- The stress from the duties he was required to perform in his temporary and permanent position.*
- The stress from the work requirement to meet deadlines and serve customers. The employer verified that the work Mr. performed often required meeting high priority/short fuse timelines to support and, therefore, he had to endure some form of stress as a result.*
- The stress from the new work duties he performed beginning on to  
The record clearly shows that claimant took on a new job for which he was temporarily promoted to the and as a  
which was not to exceed beyond the date of This temporary promotion was to backfill the until a new one was hired. The position did not differ much from previous position but he did have additional duties as a Supervisor (i.e. leave approval, attendance at meetings, and support to lower level employees). His regular job was similar in experience to the functions. In the temporary position, Mr. was more involved with the workforce than his predecessor, assisting them with the turn-in of equipment/clothing items in the Warehouse, etcetera. These projects were big, as it required sorting boots and uniforms and matching them by National Stock Numbers. Also, at the time, Mr. was assigned 3 additional Summer Hires personnel to assist the Warehouse Chief to accomplish the sorting and turn-in of the equipment. In addition, Mr. duties included providing support to the the His duties involved sifting behind a desk, dealing with customer's over the phone and in person, and inspection of equipment and computer work. The position also involved the supervision of some employees in Property*

*Book (2 people), Stock Control (2 people), and 1 Supervisor in the Warehouse. This position required he also serve as the Senior Rater for lower graded personnel in the Warehouse.*

- The stress from providing strong leadership, mentoring, coaching and overseeing the clearing of the temporary building DOL used for storage of equipment. The employer verified that he performed these duties and they were part of his duties. The employer also stated Mr. \_\_\_\_\_ provided "leadership and support to the individuals assigned to the \_\_\_\_\_"*

Accordingly, the hearing representative remanded your case to the Office for further development of the medical evidence in determining whether any such compensable factor of employment, as set forth above from the hearing decision, caused or contributed to the death of the decedent. Pursuant to the instructions of the hearing representative, this case was referred to a second opinion examiner for a record review. This review was conducted by \_\_\_\_\_ M.D. Dr. \_\_\_\_\_ report, dated \_\_\_\_\_ was received into the record or

By prior decision of this Office dated \_\_\_\_\_ your claim for survivor benefits was again denied. The medical evidence of record was previously discussed in detail in the prior decision of this Office dated \_\_\_\_\_. It was explained in the prior decision as follows:

\_\_\_\_\_ the record showed that the decedent suffered an extensive history of cardiac conditions reaching back as early as \_\_\_\_\_ according to evidence of record (specifically noted in the record is a myocardial infarction of \_\_\_\_\_ and prior iliac stenting in \_\_\_\_\_. The record further shows that the decedent was first evaluated by Dr. \_\_\_\_\_ a cardiologist, during a hospitalization at \_\_\_\_\_ on \_\_\_\_\_ for peripheral vascular disease. The decedent then underwent a coronary angiography and cardiac catheterization with stenting on \_\_\_\_\_ which was performed by \_\_\_\_\_ M.D. Noted as the diagnoses in the discharge note of \_\_\_\_\_ are as follows: "coronary artery disease status post anterior myocardial infarction, status post percutaneous transluminal coronary angioplasty and stenting of the circumflex and right coronary artery with drug-eluting stents; peripheral vascular disease status post bilateral common iliac stenting \_\_\_\_\_; hyperlipidemia, and ongoing tobacco abuse."

Dr. \_\_\_\_\_ saw the decedent again on \_\_\_\_\_. The reason for the office visit was stated as "post-catheterization assessment, ongoing management of coronary artery disease, hyperlipidemia, resector modification (smoking)." Dr. \_\_\_\_\_ also mentioned relevant medical history of a prior iliac stenting at the \_\_\_\_\_ (as mentioned above), and a bilateral common iliac stenting and left external balloon angioplasty at the \_\_\_\_\_ as well as a "silent MI" (myocardial infarction) in \_\_\_\_\_. Nowhere in his report did Dr. \_\_\_\_\_ mention the decedent's federal employment. Dr. \_\_\_\_\_ noted only that the decedent was to refrain from "extreme exercise."

The decedent was admitted to \_\_\_\_\_ in \_\_\_\_\_ on \_\_\_\_\_ for chest pain and shortness of breath. He was transferred to \_\_\_\_\_ on \_\_\_\_\_ as shown in the transfer report of that same date, signed by \_\_\_\_\_ M.D. According to the transfer note, the decedent suffered from acute pulmonary emboli. Dr. \_\_\_\_\_ also noted the decedent's "remarkable vasculopathy including recent coronary artery intervention, and peripheral arterial disease...." The decedent was admitted to the Intensive Care Unit at \_\_\_\_\_. No mention was made of any relationship between the decedent's federal employment and his extensive cardiac medical history.

The decedent was seen in consultation again on [redacted] for "left-sided numbness." The only mention of stress was with regard to the decedent's self-report of having felt stress because his boss asked him to get a medical note to document his lost time from work. According to the consultation note, signed by [redacted] M.D., the decedent also underwent an MRI study of the brain that had shown "a small 4 mm aneurysm on the anterior communicating artery." The MRI report of [redacted] is of record and confirms the presence of the aneurysm. Dr. [redacted] also referenced a CT angiogram that was performed (CT report of record dated [redacted]) which showed "the same aneurysm." Dr. [redacted] noted that he had "a long talk with the patient about the aneurysm." Dr. [redacted] reportedly informed the decedent that surgery was not indicated at that time as the aneurysm was under 10 mm. None of the aforementioned medical reports of record provided any rationalized opinion as to the etiology of the decedent's conditions. No new medical evidence was received into the record between the date of the medical report of [redacted] and the reports from [redacted]. The record shows that the decedent

was admitted to the emergency department of [redacted]

His condition was noted as "somewhat unresponsive" and he was intubated. Noted in the emergency records is his extensive coronary history, including the presence of coronary artery stents from his prior procedures discussed above. A CT scan was performed upon admission and showed "mass effect from the hemorrhage... Impression: Extensive interventricular hemorrhage, interhemispheric hemorrhage, and subarachnoid hemorrhage." The CT report further described the pattern of hemorrhage as suggestive of "an A-comm aneurysm rupture...." The decedent's federal employment is not discussed in the medical reports of [redacted]

Surgery was performed on [redacted]. The specific procedure was described in the operative report, signed by [redacted] M.D., as "ventriculostomy catheter placement, right frontal." The postoperative diagnosis was stated as "subarachnoid hemorrhage, hydrocephalus." The medical reports further show that the decedent succumbed to cardiopulmonary arrest. As mentioned above, the death certificate of record establishes the date of death as [redacted]. The causes of death are stated on the death certificate in the following order: "cardiopulmonary arrest, severe brain edema, brain herniation syndrome, aneurysmal subarachnoid hemorrhage."

While the contemporaneous medical reports of record discussed above did not provide a rationalized opinion to the effect that the decedent's federal employment caused or contributed to his death, Dr. [redacted] addressed the cause of death in his letter dated [redacted]. Dr. [redacted] urged that psychological stress played a contributing role in the rupture of the intracranial aneurysm that caused the death of the decedent. However, Dr. [redacted] did not provide any reference to a definitive diagnosis of any stress-related condition. His remarks are premised largely on the decedent's self-reports that he was under stress at work. Dr. [redacted] did mention in his letter that the decedent had indicated that he had come under stress when he assumed his supervisory position in the summer of [redacted]. Dr. [redacted] referenced a medical report of [redacted] as indicating that the decedent was stressed at work (this report is discussed above herein). However, Dr. [redacted] did not provide the full context in which the decedent mentioned stress. The report of [redacted] shows that the decedent mentioned that he felt stressed due to the fact that his boss had asked him to provide a medical note to substantiate his frequent absence from work due to his coronary conditions and other medical complications (discussed above).

In his letter of \_\_\_\_\_ Dr. \_\_\_\_\_ noted that the decedent's blood pressure was labile and was elevated on a number of clinical evaluations, particularly with atypical chest and facial pain. Dr. \_\_\_\_\_ concluded that he felt that psychological stress from work had a contributing role in the rupture of the intracranial aneurysm that directly caused the death of the decedent. However, Dr. \_\_\_\_\_ letter was not sufficiently well-rationalized in explaining the causal relationship between the decedent's multiple conditions and the factors of the decedent's employment.

Dr. \_\_\_\_\_ subsequent letter of \_\_\_\_\_ was discussed in detail in the hearing decision of \_\_\_\_\_ The hearing representative stated as follows with respect to Dr. \_\_\_\_\_ letter:

*"In a letter dated \_\_\_\_\_ Dr. \_\_\_\_\_ stated he had been Mr. \_\_\_\_\_ cardiologist from \_\_\_\_\_ until the time of his death in \_\_\_\_\_. The doctor stated that Mr. \_\_\_\_\_ had a smoking addiction, labile blood pressure and elevated cholesterol conditions, which caused coronary heart disease and which were exaggerated by work-related stress and as a result Mr. \_\_\_\_\_ developed blockages in his coronary arteries, which required stents and drugs to prevent clotting. The doctor provided details of the clinical course of Mr. \_\_\_\_\_ condition and the treatment that was provided. The doctor stated that the drugs Mr. \_\_\_\_\_ received for the treatment of his heart condition may have increased the likelihood or extent of intracranial hemorrhage." The doctor also stated, "His [Mr. \_\_\_\_\_] heart condition was, in my opinion, affected by his work."*

*Dr. \_\_\_\_\_ concluded his report, stating, "Mr. \_\_\_\_\_ had undergone stenting of the iliac artery in his leg in \_\_\_\_\_ stenting of four blockages in his coronary arteries in \_\_\_\_\_ and subsequently sustained a blood clot to his lung. He worried about the consequences of missing work and the concern that no one was available to pick fill in. He continued to drive between \_\_\_\_\_ and \_\_\_\_\_ - a trip of 30 miles-twice daily or 60 miles per day. He had indicated to me that he felt he was sorely needed at his job at \_\_\_\_\_ and that he could not take off any more time than the minimum allowed. He was hospitalized once for symptoms which were deemed related to stress and anxiety on account of delay in ability to return to work. It is my understanding that he was given more responsibilities at work in the months preceding his death and was involved with heavy lifting activities which may have raised his blood pressure and challenged him physically. Knowing Mr. \_\_\_\_\_ as I did and his devotion to work and family, I believe the stress and effort associated with fulfilling his job related duties contributed to both his coronary artery disease as well as conditions that may have promoted intracranial hemorrhage including physical and emotional stress, labile blood pressure, and the need for drugs that increase bleeding risk."*

Subsequent to the issuance of the decision of this Office dated \_\_\_\_\_ you exercised your right of appeal and requested an oral hearing before the Branch of Hearings and Review. By decision of the hearing representative dated \_\_\_\_\_ your case was remanded to this Office for referral to an independent medical examiner.

In the hearing decision dated \_\_\_\_\_ (referenced above), the hearing representative found a conflict in the medical evidence between the report of the second opinion medical examiner, Dr. \_\_\_\_\_ and the medical opinion of the decedent's treating physician, Dr. \_\_\_\_\_. The specific conflict was identified as whether the decedent's reported stress at work was a contributing factor to a medical condition which led to his death. For that reason, the hearing representative instructed this Office to refer the case to an independent medical examiner as mentioned above. Pursuant to the hearing instruction, the case records were referred to \_\_\_\_\_ M.D.,

\_\_\_\_\_ at the \_\_\_\_\_ in \_\_\_\_\_, for a record review. The selection of Dr. \_\_\_\_\_ was made in accordance with establish program procedures for referee selection.

In his report, Dr. \_\_\_\_\_ had stated as follows:

*"At the time of Mr. \_\_\_\_\_ passing, he had several serious comorbidities, including essential hypertension, peripheral vascular disease, hyperlipidemia, coronary artery disease, recent pulmonary embolism, and cigarette addiction. With the exception of the previous pulmonary embolism and coronary artery disease, all these comorbidities may have played a direct causal role in Mr. \_\_\_\_\_ life-ending intracerebral bleed, since HTN, hyperlipidemia, smoking and cerebrovascular disease are known — - risk factors for hemorrhagic stroke, be it from aneurysm rupture or other cerebral vascular bleed.*

*The time course for development of a major complication from the above risk factors, however, is variable, usually dependent on the number of combined risk factors as well as factors unknown. Usually it takes several decades of HTN, hyperlipidemia and/or cigarette abuse before complications such as coronary artery disease, peripheral vascular disease and stroke became manifest. Whether brief periods (ie months) of poor risk factor control along this time line increase immediate clinical complications is not established, but it is known that the longer these risk factors have been present, the higher the likelihood of complications.*

*Mr. \_\_\_\_\_ already had manifested severe potentially life-threatening complications of his cardiovascular risk factors, including multivessel coronary artery disease and peripheral vascular disease. As recently as \_\_\_\_\_ less than 6 months before his death, Mr. \_\_\_\_\_ underwent coronary angiography and percutaneous coronary revascularization, followed one week later by hospitalization for pulmonary embolization. One month previously, he required aortoiliac bifurcation stenting and angioplasty. These procedures and hospitalizations required careful followup and attention to tight control of risk factors, to avoid recurrent events and potential complications of new therapies, ie anticoagulation.*

*Unfortunately, at the very time when Mr. \_\_\_\_\_ risk factors such as hypertension and smoking should have been reigned in, it is apparent that they became less controlled as a result of the change in his work environment. Specifically, it is highly likely that Mr. \_\_\_\_\_ blood pressure was not adequately controlled as a result of the stress from his work environment. Such stresses, established as accepted events that are factors of Mr. \_\_\_\_\_ employment, include (from Statement of Accepted Facts in the Case of \_\_\_\_\_ File # \_\_\_\_\_):*

- The decedent's concerns and fear that his work would not get done if he took too much time off work for his medical conditions.*
- The stress from the duties he was required to perform in his temporary and permanent position.*
- The stress from the work requirement to meet deadlines and serve customers.*
- The stress from the new work duties he performed beginning on \_\_\_\_\_ to \_\_\_\_\_.*
- The stress from providing strong leadership, mentoring, coaching and overseeing.*

*While increased physical duties and increased cigarette smoking were not considered factors of employment or were deemed not to have occurred (from Statement of Accepted Facts in the Case of \_\_\_\_\_ DOB \_\_\_\_\_ File# \_\_\_\_\_), the emotional stresses, above, were sufficient to have aggravated Mr. \_\_\_\_\_ hypertension, thereby increasing his risk of death from hemorrhagic stroke.*

*Thus, it is my professional opinion that the cause of death of Mr. \_\_\_\_\_ was related to several accepted factors of employment as set forth in the Statement of Accepted Facts in the Case of \_\_\_\_\_*

Dr. \_\_\_\_\_ initial report was received by this Office on \_\_\_\_\_ but was not sufficiently rationalized to support his opinion. Therefore, this Office requested a supplemental report from him. His supplemental report was not received into the record until \_\_\_\_\_. In his supplemental report, Dr. \_\_\_\_\_ clarified his opinion as follows:

*"This is a supplemental report at the request of the US Dept of Labor, Office of Workers' Comp Programs, addressing 3 concerns with my original case review of \_\_\_\_\_."*

1. *"...you mentioned that you felt that the emotional stresses from work were sufficient to have aggravated the claimants hypertension and that this may have increased the risk of death from hemorrhagic stroke. You did not provide a detailed medical explanation as to how you were able to discern, clinically, that the work factors actually aggravated the condition of hypertension."*

*If one examines the blood pressure measurements of Mr. \_\_\_\_\_ during the time of his change of employment description — between \_\_\_\_\_ and \_\_\_\_\_ — it is apparent that there was an escalation between early in that time period and his presentation on \_\_\_\_\_ despite being on an intensive anti-hypertensive regimen. Office blood pressures on \_\_\_\_\_ were 130/80 and 122/80; on \_\_\_\_\_, 120/80; on \_\_\_\_\_ 138/78; on \_\_\_\_\_ initial blood pressures (pre-intubation) 138/61, 155/89, 141/109. Such blood pressure rise correlates with Mr \_\_\_\_\_ change in employment, and thus was most likely a direct result of this change. During this time period, his cardiovascular status was improved with percutaneous revascularization procedures that assured no significant coronary or peripheral vascular disease influences to raise his blood pressure; in fact, the success of these interventions — both mechanically and emotionally - would be expected to lower blood pressure.*

2. *"Also, you did not provide a detailed medical explanation as to how you were able to discern that such condition actually resulted in the claimant's death."*

*It is established fact that hypertension is the leading cause of stroke. It was Mr. \_\_\_\_\_ greatest risk factor for stroke, and although the mechanisms that trigger a hemorrhagic stroke*

at a given time, at a given place, in a given patient are not precisely known, Mr. \_\_\_\_\_ would likely not have suffered his fatal stroke had he not had the major risk factor of hypertension and/or if his hypertension was adequately controlled with therapy. Such therapy would consist of behavioral, medical and environmental interventions, including attention to his work environment. This latter "therapy" was clearly not addressed, and, in fact, was altered in such a way as to increase his emotional stresses, thereby contributing to his hypertension and ensuing stroke risk.

3. "Given that the claimant underwent such procedures and given the presence at the time of death of the several serious co-morbidities which you identified in your report, the need for a rationalized medical opinion from you explaining, in medical terms, whether and how a particular condition caused the claimant's death is important to determining this claim."

The clear cause of Mr. \_\_\_\_\_ death was intracerebral hemorrhage with brain edema causing brain herniation and death. Cardiopulmonary arrest is a widely used catch-all phrase used on death certificates that does not clearly define the proximate cause of death, which in this case was intracerebral hemorrhage. As discussed above (and in the report of \_\_\_\_\_, it is impossible to indict a single event or procedure that alone triggered the fatal stroke. Rather, it was likely primarily the accumulation of longstanding hypertension, exacerbated by several months of poor control, that pushed Mr. \_\_\_\_\_ over the brink to suffer his unfortunate fatal event."

In sum, Dr. \_\_\_\_\_ reports, taken together with the medical evidence of record, provide substantial, reliable and probative evidence that the decedent's work conditions were a causative factor in aggravating his pre-existing condition of hypertension sufficient to trigger the fatal event. Where there exists a conflict of medical opinion and the case is referred to an impartial specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, is entitled to special weight. 49 ECAB\_\_95-2666 issued March 18, 1998.

Based on the above discussion of the evidence of record, your claim for survivor benefits is hereby accepted on grounds that there is sufficient medical evidence of record to establish a causal relationship between compensable factors of employment and the death of the decedent on \_\_\_\_\_. You will be notified by separate letter of the specific monetary award of benefits, and of your rights and responsibilities in connection therewith.

Sincerely,

  
Joan C. Densberger  
Senior Claims Examiner



File Number:

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