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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.,

