United States Department of Labor
Employees' Compensation Appeals Board

PHILLIP L. BARNES, Appellant	)	
and	)	**Docket No. 02-1441**
	)	**Issued: March 31, 2004**
U.S. POSTAL SERVICE, POST OFFICE, Portsmouth, VA, Employer	)	

Appearances:
Karen M. Rye, Esq., for the appellant
Thomas G. Giblin, Esq., for the Director

Oral Argument January 15, 2004

DECISION AND ORDER

Before:
COLLEEN DUFFY KIKO, Member
WILLIE T.C. THOMAS, Alternate Member
A. PETER KANJORSKI, Alternate Member

JURISDICTION

On May 3, 2002 appellant filed a timely appeal from a merit decision of the Office of Workers' Compensation Programs dated October 5, 2001, denying his claims for an emotional condition and for employment-related hypertension, and a nonmerit decision dated April 2, 2002, denying his request for further merit review. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over both the merit and nonmerit decisions.

ISSUES

The issues are: (1) whether the Office properly adjudicated the instant claim as a new emotional condition claim, rather than as a claim for a recurrence of appellant's prior accepted emotional condition claim; (2) whether appellant established that he sustained a new emotional condition in the performance of duty; (3) whether appellant established that his preexisting high blood pressure has been aggravated by his employment; and (4) whether the Office properly refused to reopen appellant's claim for further review of the merits of his claim on April 2, 2002 under 5 U.S.C. § 8128(a). On appeal, appellant asserts that his current emotional condition is actually a recurrence of a prior accepted emotional condition and is not a claim for a new

emotional condition. Appellant further asserts that he has submitted evidence which establishes that his accepted conditions should be expanded to include aggravation of high blood pressure.

FACTUAL HISTORY

On January 26, 1998 appellant, then a 45-year-old city carrier, filed a claim for compensation alleging that he developed an emotional condition as a result of an altercation with his supervisor which occurred on December 5, 1997. Appellant stopped work on December 5, 1997 and returned to full duty on January 5, 1998. Appellant's claim was accepted for acute stress reaction on April 8, 1999.[1]

On March 16, 2000 appellant filed a claim, Form CA-2a, for a recurrence of disability, alleging that on March 6, 2000 he suffered a relapse of his stress-related condition and stopped work. Appellant returned to work on March 13, 2000 but has been off work for intermittent periods since that time. Upon review of appellant's claim and supporting materials, on May 5, 2000, the Office determined that, because appellant specifically referenced new stressful events which occurred after his return to full duty on January 5, 1998, the claim would be developed as a new emotional condition claim and not as a recurrence of his prior accepted emotional condition.

In his original narrative statement and in an additional statement submitted in response to the Office's June 29, 2000 request for additional medical and factual evidence, appellant explained that, since his initial accepted stress reaction, he had been under continuing medical care for high blood pressure and anxiety and had also been under work limitations prescribed by his physician. Appellant described the situations and events that led to his having to go to the emergency room on March 6, 2000. He stated that his position sometimes required that he work in three offices in one day, and that in November 1998 he became sick due to exhaustion. He explained that the holiday season took a big toll on him, and that he also experienced stress over his claim for compensation, which was going to oral hearing in January 1999. As a result of this increased stress, he had to take a week off work and seek medical attention. In addition, in January 1999 the new stamp rate went into effect and there was a shortage of stamp stock. As a result, he received daily complaints from customers regarding the lack of stamps and the new higher rates, and he felt he was in the front lines of battle selling a product of which he did not have enough. Appellant stated that his anti-anxiety medication had to be increased and his physician had difficulty keeping his blood pressure under control.

Appellant reported being on the edge of his nerves in March 1999 due to long hours, being ignored in his training course and anxiety over the pending adjudication of his workers' compensation claim. He asserted that on April 13, 1999 his supervisor acted abusively towards him by requiring him to work at the window when he was feeling badly due to his blood pressure. He stated that when he worked over his allotted 10 hours he was reprimanded and given a letter of warning without being given a chance to explain. He stated that, following mediation, his supervisor apologized to him. Appellant added that a new postmaster acted

[1] By decision dated June 5, 1998, the Office initially denied appellant's claim, but following appellant's request for an oral hearing, the denial was reversed by an Office hearing representative on March 31, 1999.

unreasonably and abusively towards him by assigning him duties in areas where he had not been trained, bouncing him from one post office to another and requiring him to work long hours outside of his restrictions. In addition, on July 13, 1999 an acting supervisor pulled him off his job and placed him in a work area he had previously been exempt from working in and he had to work long days and off-the-clock "swingouts" in order to complete both these new tasks and his original tasks. Appellant asserted that on July 14, 1999 the postmaster acted abusively and unreasonably by reprimanding him about his behavior towards the acting supervisor, whom appellant asserted had wrongly reprimanded him for uniform noncompliance and had demanded that a photograph be taken of appellant's improper attire. Appellant stated that this caused him to have to leave work and further caused him to collapse in the parking lot. He stated that he was off work until August 10, 1999.

On July 23, 1999 appellant accepted a limited-duty position which restricted walking and standing to 2 hours at a time and limited his workday to 8-hour days and 40-hour weeks. The position stated that appellant would work the window at the Portside Station until further notice and would stay within his limitations. The position contained a notation from appellant that, beginning September 1999, he was assigned to six-day weeks.

Appellant stated that, following his return to work, after his request for a transfer was denied several times, he was finally reassigned to the Churchland Post Office, which was a smaller and less busy station than the main post office where he initially suffered his stress reaction. Appellant stated that, while he welcomed the transfer, he was distressed by the fact that he had to give up his full-time career position and seniority in order to switch to a part-time flexible clerk position. Appellant stated that at first he was able to perform his assigned duties within his prescribed limitations, but subsequently, while his supervisor was on sick leave, the acting supervisor changed his schedule and required him to work alone at the window and handle customers on the telephone and at the counter, against his physician's directions. In addition, management enrolled him in additional training to learn the "scheme," the correlation of house and street numbers to the various postal routes. This training took place two hours a day, six days a week, at the main post office. He stated that he had to participate in this training in addition to performing his regular Churchland duties, and that a problem arose because his Churchland duties each had a time limitation, which was very stressful to him because he was not fully trained in these areas. These duties included getting the box section mail up by a certain time, and doing reports, notices and lock changes. Appellant stated that, in addition, because the regular box section clerk was not doing his job, there were also complaints to deal with. He stated that he was constantly interrupted by management to perform some other task, which was very stressful because it would cause him to have difficulty completing his regular work within the designated time limits. Appellant noted that, while he had some help with the box section during the week, on Saturdays he was all alone, and it was very stressful because he was expected to do his own work plus that of his absent coworker. He stated that he felt stressed out by the staffing shortages at the workplace and about his ability to meet management's expectations, especially on Saturdays. He asserted that he expressed his concerns to his branch manager, who told him just to do one task at a time and to work within his restrictions. Appellant explained, however, that, because most of his task areas had time limitations, such as the box section, priority mail and express mail, he felt this was impossible. Appellant stated that, on March 6, 2000, he again expressed his concerns to his supervisor, and further informed his

supervisor that certain coworkers harbored resentment towards him because of his work assignments. He explained that, when he started work on Monday, March 6, 2000, his blood pressure was already very high, due to his having had another hectic Saturday, and then he had to deal with the usual Monday high mail volume, rush to get the box section completed and then drive six miles to his scheme training at the main post office. He stated that he was about 20 minutes into his scheme training when he experienced chest pains, difficulty breathing, dizziness and weakness, and had to be taken to the emergency room.

In further support of his claim, appellant submitted medical reports and progress notes from his treating physicians and therapists. A number of these reports are written by a clinical social worker and, therefore, cannot be considered medical evidence.[2] However, the record also contains numerous reports from Dr. David S. Ramstad, appellant's treating Board-certified internist. In treatment notes dated April 13 and 19 and June 3, 1999, Dr. Ramstad noted that appellant reported being under a lot of stress at work, working the window and working long days. Appellant stated that the window bothered him the most. Dr. Ramstad took appellant out of work due to his blood pressure and the stress. In a report dated July 14, 1999, Dr. Ramstad noted that appellant had complained of lots of stress at work, and noted that he had "words" that day with his supervisor and the postmaster. Dr. Ramstad took appellant off work in order to allow him a chance to relax and get over the episode. In a report dated July 21, 1999, Dr. Ramstad recommended work restrictions to help with the treatment of appellant's high blood pressure, including: avoiding or limiting his workday to 8 hours a day or 40 hours a week; taking a break from standing every 2 hours; avoiding stressors at work; performing duties only where he had been properly trained; avoiding performing more than one duty in a certain time frame; avoiding having more than one supervisor giving him different instructions; avoiding or limiting as much as possible duties at the main post office; and taking a break every 30 minutes when bending or leaning over equipment. In a progress note dated October 22, 1999, Dr. Ramstad noted that appellant continued to complain of stress at the employing establishment, and related that he had recently been put on the window when there was a line of eight people, and he was answering the telephones, taking orders, handling complaints over the telephone and trying to get the mail ready, all without help. He concluded that appellant needed to get out of this stressful environment and recommended that he switch jobs to one that was less stressful. In a letter dated November 2, 1999, Dr. Ramstad stated that the stress appellant had encountered at the employing establishment had aggravated his blood pressure, making it difficult to treat. In a treatment note dated January 14, 2000, Dr. Ramstad noted that appellant was doing better and was soon to be transferred to the less stressful Churchland station. In a follow-up note dated February 11, 2000, Dr. Ramstad noted that appellant was doing well since his transfer, but that he should not work the window. In progress notes dated March 8 and 15, 2000, Dr. Ramstad noted that appellant had suffered chest pain and shortness of breath on March 6, 2000, precipitated by stress, and had to be admitted to the hospital. He diagnosed hypertension, causally related to work and stress.

In a hospital discharge summary dated March 7, 2000, Dr. William Doss, a Board-certified physiatrist, noted that appellant had been admitted with increasing chest pain and

[2] The reports of a social worker do not constitute competent medical evidence, as a social worker is not a "physician" as defined by 5 U.S.C. § 8101(2). *Ernest St. Pierre*, 51 ECAB 623 (2000).

weakness, and reported having been under a lot of stress at work. He stated that testing indicated that appellant did not have any significant coronary artery disease, and listed his diagnoses as chest pain, noncardiac in origin, hypertension and hypertensive cardiovascular disease and anxiety attacks.

In a follow-up report dated April 19, 2000, Dr. Ramstad stated that appellant was doing better and should continue his restrictions and medications. He reiterated that appellant should continue his current restrictions, including no window work. In a progress note dated June 26, 2000, Dr. Ramstad noted that appellant complained of increased shortness of breath and increased stress at work. Appellant was referred to Dr. Jeffrey D. Foreman, a Board-certified internist, who diagnosed dyspnea on exertion, probably related to anxiety. On August 7, 2000 Dr. Ramstad limited appellant to working five days per week. In follow-up reports dated August 7 and September 6, 2000, Dr. Ramstad noted that appellant reported being under tremendous stress at work, working 6 days to make 40 hours, and performing tasks he did not feel he should be doing. He took appellant off work for a few days to allow his blood pressure to come under control. In a follow-up report dated October 11, 2000, Dr. Ramstad noted that appellant had been at work that morning and became very upset with the way he was being treated. Dr. Ramstad noted that appellant's blood pressure was quite high when he presented, and recommended appellant be off work for a couple of weeks. On October 25, 2000 Dr. Ramstad noted that appellant complained of increased stress when working around customers or working overtime. He diagnosed hypertension and stress from work and released appellant back to work with restrictions.

In attending physician's reports and duty status reports, CA-20 and CA-17 forms, dating from July 21, 1999 to November 15, 2000, Dr. Ramstad diagnosed high blood pressure, stress, depression and anxiety and indicated by check mark that these conditions were causally related to stress at appellant's work. On several of these reports, Dr. Ramstad also recommended that appellant limit pressure from deadlines, not work any overtime, and not perform any window service or customer service or otherwise have any personal contact with customers.

The employing establishment submitted a statement dated November 30, 2000 from Michael D. Hooper, manager of the Churchland Station, with respect to appellant's allegations. Mr. Hooper stated that on or around October 9, 2000 he asked appellant to assist customers in the lobby, as he had done many times before since being assigned to his unit in January 2000. He stated that he was very surprised when appellant informed him lobby work was against his medical restrictions, as appellant had never indicated this before. Mr. Hooper stated that, as he did not have a copy of appellant's restrictions on hand, he asked appellant to assist the customers for him this once until they had a chance to review and discuss the restrictions. Mr. Hooper stated that appellant complied and assisted the customers as asked.

Mr. Hooper stated that, on October 10, 2000, he asked appellant to come into his office so they could discuss his medical restrictions. He reviewed the restrictions together with appellant and pointed out to appellant that the restrictions merely stated that appellant could not perform window duty, but did not state that he could not perform customer service. When appellant asserted that he felt assisting customers in the lobby was the equivalent of doing window duty, and it became clear that they were in disagreement over this issue, Mr. Hooper

stated that he decided to seek clarification from appellant's physician regarding appellant's exact restrictions.

On October 11, 2000 Mr. Hooper stated that he brought the letter he had drafted to appellant for his review, to ensure that he covered all of the duties involved in assisting customers in the lobby. Appellant responded that he had several pages of duties he wished to discuss with his doctor. Mr. Hooper stated that, when he told appellant that was fine but he was only concerned with the specific duties outlined in the letter, appellant stated that Mr. Hooper was picking on him. Mr. Hooper stated that appellant then digressed into his past problems, lamenting that everyone picked on him and other limited-duty employees, that the employing establishment had been short of help and had been moving him all over the place and stressing him out and never tried to understand his problems or deal with them effectively. Mr. Hooper stated that he explained to appellant that he could not help him if he did not know about his problems, at which point appellant stated that he felt too stressed out to work and left to see his doctor. Mr. Hooper concluded that appellant had consistently failed to inform management when he was experiencing stress and therefore it was difficult for management to adjust appellant's duties accordingly. He stated that he had discussed this with appellant on numerous occasions to no avail.

In a decision dated March 29, 2000, the Office denied appellant's claim on the grounds that he failed to establish any compensable factors of employment to support his claim for an emotional condition, and further had not submitted any evidence to establish that his hypertension was causally related to specific employment factors.

By letter dated April 27, 2001, appellant requested a review of the written record. In support of his request, appellant submitted a report dated December 29, 2000 in which Dr. Ramstad noted that appellant continued to complain of stress at work, and a letter dated January 11, 2001, in which the physician stated that he believed there was a causal relationship between many of the medical problems appellant had and the stress he had experienced through his work. Appellant also submitted duty status reports, Form CA-17, dated March 29 and April 3, 2001, in which Dr. Ramstad diagnosed hypertension, stress, depression and anxiety, indicated by check mark that these conditions were causally related to appellant's employment, and set forth restrictions, including no performing customer service.

In a decision dated October 5, 2001, an Office hearing representative affirmed the Office's prior decision.

By letter dated December 6, 2001, appellant requested reconsideration of the Office's prior decision and submitted additional medical and factual evidence in support of his request, including a report dated February 6, 2002 from Dr. Haydeh Esmaili, his treating Board-certified psychiatrist, who stated that appellant had been under his care since August 2, 1999 for treatment of depression and anxiety disorder which appeared to be precipitated by stress on the job since 1997. He added that the job stress had also affected appellant's blood pressure. Dr. Esmaili diagnosed panic disorder with agoraphobia and major depression, recurrent, nonpsychotic. He concluded that, due to the severity of appellant's anxiety, depression and severe stress on the job, he would benefit from early retirement. Appellant also submitted a February 5, 2002 report from Dr. Ramstad, who stated that he believed that the stressful environment of the employing

establishment had contributed to the elevation of appellant's blood pressure, and that therefore he had recommended avoidance of these stressors, as dictated in his previous reports.

In addition, appellant submitted a statement dated December 3, 2001 from Novella Williams, president of the union representing appellant, who stated that appellant had been made to do scheme study training for too long, had been assigned to be a lobby sweeper, helping customers, against his restriction that he not perform window work, that the employing establishment had given appellant too many tasks with no help and had harassed him by taking his picture to document that he had been out of uniform. Appellant also submitted a statement from Carol Oliver who stated that, on July 8, 1999, at 9:20 a.m., she saw the postmaster enter appellant's work area, speak harshly to him and instruct him to work the window.

Finally, appellant submitted copies of a settlement agreement dated September 15, 1999, an Equal Employment Opportunity Commission decision, dated September 24, 2001, finding agency noncompliance with the settlement agreement and remanding for further investigation, copies of letters of warning appellant had received dated November 23, 1996, November 20, 1997 and April 13, 1999, an absence and leave analysis from 1996, and letters denying his requests for transfers dated November 18, 1987 and June 1, 1998.

In a decision dated April 2, 2002, the Office found the newly submitted evidence to be insufficient to warrant further merit review.

LEGAL PRECEDENT -- ISSUE 1

Section 10.5(x) of the Office's regulations provides, in pertinent part:

> "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 had resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness."[3]

Therefore, the Board has held that, in order to establish a claim for a recurrence of disability, appellant must establish that he suffered a spontaneous material change in the employment-related condition without an intervening injury.[4]

ANALYSIS -- ISSUE 1

In the present case, appellant alleged that he sustained a recurrence of his prior accepted emotional condition as a result of a number of employment incidents and conditions. However, as appellant specifically asserted that his March 6, 2000 work stoppage was caused in part by new incidents, occurring after his return to work following his initial accepted condition, these new incidents constitute new exposure to the work environment that caused the claimed illness.

[3] 20 C.F.R. § 10.5(x).

[4] *Carlos A. Marrero*, 50 ECAB 117 (1998).

Therefore, the Office properly developed appellant's March 16, 2000 claim as one for a new injury and not as one for a recurrence of his prior accepted claim.[5]

LEGAL PRECEDENT -- ISSUE 2

To establish his claim that he sustained an emotional condition in the performance of duty, appellant must submit the following: (1) medical evidence establishing that he has an emotional or psychiatric disorder; (2) factual evidence identifying employment factors or incidents alleged to have caused or contributed to his condition; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to his emotional condition.[6] Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. There are situations where an injury or an illness has some connection with the employment but nevertheless does not come within the concept or coverage of workers' compensation. Where the disability results from an employee's emotional reaction to his regular or specially assigned duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation Act.[7] On the other hand the disability is not covered where it results from such factors as an employee's fear of a reduction-in-force or his frustration from not being permitted to work in a particular environment or to hold a particular position.[8]

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which he claims compensation was caused or adversely affected by employment factors.[9] This burden includes the submission of a detailed description of the employment factors or conditions, which appellant believes caused or adversely affected the condition or conditions for which compensation is claimed.[10]

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors in causing a condition or disability, the Office, as part of its adjudicatory function, must make findings of fact regarding which working conditions are deemed compensable factors of employment and are to be considered by a physician when providing an opinion on causal relationship and, which working conditions are not deemed factors of employment and may not be considered.[11] If a claimant does implicate a factor of employment, the Office should then determine whether the evidence of record substantiates that factor. When the matter asserted is a compensable factor of employment and the evidence of

[5] 20 C.F.R. § 10.5(x); *Carlos A. Marrero, supra* note 4.

[6] *Claudio Vazquez*, 52 ECAB 496 (2001).

[7] 5 U.S.C. §§ 8101-8193; *Roger Williams*, 52 ECAB 468 (2001).

[8] *See Roger Williams*, *supra* note 7; *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991); *Lillian Cutler*, 28 ECAB 125 (1976).

[9] *Dennis J. Balogh*, 52 ECAB 232 (2001).

[10] *Roger Williams*, *supra* note 7.

[11] *Marguerite J. Toland*, 52 ECAB 294 (2001).

record establishes the truth of the matter asserted, the Office must base its decision on an analysis of the medical evidence.[12]

ANALYSIS -- ISSUE 2

In the present case, appellant alleged that he sustained an emotional condition as a result of a number of employment incidents and conditions. By decisions dated March 29, 2000 and October 5, 2001, the Office denied appellant's emotional condition claim on the grounds that he did not establish any compensable employment factors. The Board must, therefore, initially review whether these alleged incidents and conditions of employment are covered employment factors under the terms of the Act.

Regarding appellant's allegations that he was treated abusively by his supervisor when he was assigned duties in areas where he had not been trained, bounced from one office to another, interrupted during his work to perform other tasks, reprimanded for being out of uniform, reprimanded for his behavior towards his supervisor, and issued several letters of warning, the Board has held that these allegations relate to administrative or personnel matters, unrelated to the employee's regular or specially assigned work duties and do not fall within the coverage of the Act.[13] Although the assignment of training, the handling of disciplinary actions, the assignment of work duties and the monitoring of activities at work are generally related to the employment, they are administrative functions of the employer rather than regular or specially assigned work duties of the employee.[14] Where disability results from an employee's emotional reaction to certain administrative or personnel matters, unrelated to the employee's regular or specially assigned work duties, the disability does not fall within coverage of the Act.[15] However, an administrative or personnel matter will be considered an employment factor where the evidence discloses error or abuse on the part of the employing establishment.[16] In determining whether the employing establishment erred or acted abusively, the Board has examined whether the employing establishment acted reasonably.[17] In this case, appellant has not shown that it was abusive or erroneous.[18] Thus, appellant has not established a compensable employment factor under the Act with respect to administrative matters.

With respect to appellant's allegations that the employing establishment acted abusively by requiring him to work outside of his restrictions, the Board has held that being required to work beyond one's physical limitations could constitute a compensable employment factor if

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[12] *Id.*

[13] *See Roger Williams*, *supra* note 7; *Marguerite J. Toland*, *supra* note 11; *Dennis J. Balogh*, *supra* note 9; *James E. Norris*, 52 ECAB 93 (2000).

[14] *Id.*

[15] *Roger Williams*, *supra* note 7; *Reco Roncaglione*, 52 ECAB 454 (2001).

[16] *Reco Roncaglione*, *supra* note 15; *Matilda R. Wyatt*, 52 ECAB 421 (2001).

[17] *James E. Norris*, *supra* note 13; *Ruth S. Johnson*, 46 ECAB 237 (1994).

[18] *Dennis J. Balogh*, *supra* note 9.

such activity was substantiated by the record.[19] However, in this case, the record reflects that to the extent that the employing establishment was aware of appellant's restrictions, they made every effort to comply and even sought additional clarification from appellant's physician, when necessary. The employing establishment submitted a statement from Mr. Hooper, appellant's supervisor, stating that on the occasion when he asked appellant to assist in the lobby, the restrictions he had for appellant reflected only that appellant was not to perform window work, not lobby work. He stated that he asked appellant to perform the service one time, pending clarification, and appellant agreed. After further discussing the matter with appellant, Mr. Hooper sought clarification from appellant's physician. Mr. Hooper further stated that appellant consistently failed to inform management when he was experiencing stress and therefore it was difficult for management to adjust his duties accordingly. He stated that he had discussed this with appellant on numerous occasions, to no avail. Therefore, appellant has not established a compensable factor of employment with respect to this factor.

With respect to appellant's allegation that he was treated abusively by the employing establishment when it refused his request for a transfer, the Board notes that appellant's reaction must be considered self-generated in that it resulted from his frustration in not being permitted to work in a particular environment and, therefore, is also not compensable under the Act.[20] Similarly, appellant's reaction to the loss of his full-time career position and seniority which occurred as a result of his voluntary switch to a part-time flexible clerk position must also be considered self-generated in that it too resulted from his frustration in not being permitted to hold a particular position.[21]

Concerning appellant's allegations that his supervisor and certain coworkers harbored resentment towards him because of his work assignments, to the extent that certain actions and incidents alleged as constituting harassment or disparate treatment by supervisors and coworkers are established as occurring and arising from appellant's performance of her regular duties, these could constitute employment factors.[22] However, for harassment or discrimination to give rise to a compensable disability under the Act, there must be evidence that harassment or discrimination did in fact occur. Mere perceptions of harassment or discrimination are not compensable under the Act.[23] Appellant alleged that supervisors and coworkers harbored resentment towards him; however, appellant did not provide any specifics or corroborating evidence, to establish harassment from his coworkers[24] and, as discussed above, the Board finds that the actions of his supervisors did not constitute error or abuse. Thus, appellant has not established a compensable employment factor under the Act with respect to the claimed harassment and discrimination.

[19] *Robert W. Johns*, 51 ECAB 137 (1999).

[20] *Ernest J. Malagrida*, 51 ECAB 287 (2000).

[21] *Garry M. Carlo*, 47 ECAB 299 (1996).

[22] *Marguerite J. Toland*, *supra* note 11.

[23] *Reco Roncaglione*, *supra* note 15*; Margaret J. Toland*, *supra* note 11.

[24] *Roger Williams*, *supra* note 7.

Regarding appellant's allegation that his concern over his pending compensation claim added to his stress and anxiety, the Board notes that the development of any condition related to such matters would not arise in the performance of duty as the processing of compensation claims bears no relation to appellant's day-to-day or specially-assigned duties.[25]

With respect to appellant's allegations that his emotional condition was precipitated, in part, by face-to-face and telephone contact with the public, selling stamps, performing customer service and handling complaints, the Board finds that these allegations related directly to the performance of appellant's assigned duties, and were further substantiated by a supervisor. Under the principles set forth in *Cutler*,[26] appellant has alleged compensable factors of his federal employment as contributing to an emotional condition.[27]

Finally, appellant asserted that, due to periodic high volumes of mail, including holidays and Mondays, the short-handed staff, especially on Saturdays, his lack of training in certain areas, the requirement that he travel to the main post office to participate in scheme training, being bounced back and forth from task to task, and being interrupted, he had difficulty meeting management's expectations, especially with respect to those task areas which had time limitations, such as the box section, priority mail and express mail. The Board has held that emotional reactions to situations in which an employee is trying to meet the position requirements are compensable.[28] In *Antal*, a tax examiner filed a claim alleging that his emotional condition was caused by the pressures of trying to meet the production standards of his job and the Board, citing the principles of *Cutler*, found that the claimant was entitled to compensation.[29] In this case, it is undisputed that appellant had difficulty keeping up with his work, and was reprimanded for working overtime to complete his tasks on at least two occasions. Therefore, appellant has established his difficulty in performing his assigned duties as a compensable factor of employment. As appellant has implicated compensable employment factors, the Office must base its decision on an analysis of the medical evidence.[30]

LEGAL PRECEDENT -- ISSUE 3

An employee seeking benefits under the Act has the burden of establishing the essential elements of his or her claim including the fact that the individual is an employee of the United States within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury. Regardless of whether the asserted claim involves traumatic

[25] *Bettina M. Graf,* 47 ECAB 687 (1996).

[26] *Lillian Cutler, supra* note 8.

[27] *Peter J. Smith,* 48 ECAB 453 (1997).

[28] *Samuel Senkow,* 50 ECAB 370 (1999).

[29] *Joseph A. Antal,* 34 ECAB 608 (1983).

[30] *Robert Bartlett,* 51 ECAB 664 (2000).

injury or occupational disease, an employee must satisfy this burden of proof.[31] A claimant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which he claims compensation was caused or adversely affected by factors of her federal employment,[32] either directly, or by precipitation, aggravation or acceleration.[33]

Causal relationship is a medical issue, and the medical evidence required to establish a causal relationship is rationalized medical evidence.[34] Rationalized medical evidence is medical evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 the specific employment factors identified by the claimant.[35] 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 caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.[36]

ANALYSIS -- ISSUE 3

In the present case, by letters dated January 6 and April 23, 2000, appellant asserted that he had submitted sufficient medical evidence to establish that his employment had aggravated his preexisting hypertension, and asked that the Office expand its acceptance of his claim to include this condition. By letter dated December 29, 2000, the Office informed appellant his hypertension had not been accepted, as there was no indication in the record that this condition was employment related. In its decision dated March 29, 2000, affirmed by decision dated October 5, 2001, the Office again found that appellant had not established a claim for employment-related hypertension.

The Board however notes, as set forth above, that the record contains extensive medical evidence indicating that there is a causal relationship between appellant's employment duties and his hypertension. Specifically, in a letter dated November 2, 1999, Dr. Ramstad stated that stress appellant had encountered at the employing establishment had aggravated his blood pressure, making it difficult to treat. In progress notes dated March 8, 2000, the physician diagnosed hypertension, causally related to work and stress. In attending physician's reports, CA-20 and CA-17 forms, dating from July 21, 1999 to November 15, 2000, Dr. Ramstad diagnosed high blood pressure, stress, depression and anxiety and indicated by check mark that these conditions were causally related to stress at appellant's work.

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[31] *Kathryn A. Tuel-Gillem*, 52 ECAB 451 (2001); *Gary J. Watling*, 52 ECAB 278 (2001).

[32] *Roger Williams*, *supra* note 7; *Matilda R. Wyatt*, *supra* note 16.

[33] *Karen Cepec*, 52 ECAB 156 (2000).

[34] *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

[35] *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

[36] *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

The Board finds that the numerous reports from Dr. Ramstad regarding the causal relationship between appellant's hypertension and his employment duties are sufficient to require further development of the case record by the Office.[37] Proceedings under the Act are not adversarial in nature, nor is the Office a disinterested arbiter. While the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence to see that justice is done.[38] Additionally, the Board notes that in this case the record contains no medical opinion contrary to appellant's position. The Board will remand the case for further development of the medical evidence.

CONCLUSION

In the present case, the Board finds that the Office properly adjudicated appellant's claim as one for a new emotional condition, rather than one for a recurrence of his previously accepted emotional condition. The Board further finds that appellant has identified compensable employment factors with respect to his interactions with the public and his difficulty keeping up with his workload. As appellant has implicated compensable employment factors, the Office must base its decision on an analysis of the medical evidence. As the Office found that there were no compensable employment factors, it did not analyze or develop the medical evidence. The case will be remanded to the Office for this purpose.[39] After such further development as deemed necessary, the Office should issue an appropriate decision on this matter.

In addition, appellant has established a *prima facie* case with respect to the claimed aggravation of his preexisting hypertension, sufficient to require further medical development by the Office. On remand the Office should prepare a statement of accepted facts and refer appellant, along with his medical records, for a second opinion examination to obtain a rationalized opinion as to whether appellant's current diagnosed hypertension is causally related to factors of appellant's federal employment, either directly, or through aggravation, precipitation or acceleration. Following such further development as may be necessary, the Office shall issue an appropriate final decision on this issue.

In light of the Board's holding with respect to issues two and three, the Board need not address issue four with respect to whether the Office properly denied appellant's request for further merit review on April 2, 2002.

[37] *See Felix Flecha*, 52 ECAB 268 (2001); *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978).

[38] *Claudio Vazquez, supra* note 6*; William J. Cantrell*, 34 ECAB 1223 (1983).

[39] *See Robert Bartlett, supra* note 30.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 2, 2002 be set aside, and the decision of the Office dated October 5, 2001 be affirmed in part and set aside in part, and the case be remanded for further proceedings consistent with this decision of the Board.

Issued: March 31, 2004
Washington, DC

Colleen Duffy Kiko
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member