United States Department of Labor Employees' Compensation Appeals Board

J.S., Appellant)	
and)	Docket No. 13-2060 Issued: May 22, 2014
DEPARTMENT OF VETERANS AFFAIRS, VETERANS HEALTH ADMINISTRATION,)	155ucu. 141ay 22, 2014
Topeka, KS, Employer)	
Appearances: Alan J. Shapiro, Esq., for the appellant		Case Submitted on the Record

ORDER REMANDING CASE

Before:

RICHARD J. DASCHBACH, Chief Judge COLLEEN DUFFY KIKO, Judge ALEC J. KOROMILAS, Alternate Judge

On September 9, 2013 appellant, through her representative, filed a timely appeal from the June 24, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP) denying her occupational disease claim. The Clerk of the Board assigned Docket No. 13-2060.

The Board has duly considered the matter and finds that this case is not in posture for decision. It is well established that an OWCP final decision must make adequate findings and provide a statement of reasons.¹ In addition, OWCP procedures state that a final decision should discuss key parts of the evidence received and include an evaluation of the evidence that should be clear and detailed so that the reader understands the reason for the disallowance of the benefit and the evidence necessary to overcome the defect of the claim.² The June 24, 2013 OWCP decision does not meet this standard.

On March 22, 2013 appellant, then a 56-year-old program support assistant, filed an occupational disease claim alleging that she sustained stress and strain in aggravation of a

Office of Solicitor, for the Director

¹ 20 C.F.R. § 10.126. See also O.R., 59 ECAB 432 (2008).

² Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.5(c) (February 2013).

preexisting injury. She stated that her condition resulted from her employers' insistence that she use leave or work longer shifts to cover her physician's recommended light-duty work restriction of 10- to 15-minute breaks for every hour spent using a keyboard, due to a neck condition. Under the heading "nature of disease or illness," appellant wrote, "stress and strain in aggravation of a pre-existing injury."

In a record of a telephone conversation dated April 19, 2013, appellant stated that she had meant to file a claim for stress at work, which aggravated her preexisting conditions of depression and anxiety. In a letter dated April 19, 2013, she noted that the initial date of aggravation of her depression and anxiety was March 15, 2013 and described employment factors relating to her claim. Appellant also submitted e-mail records dating from March 19 through 21, 2013 regarding the alleged work factors.

Appellant submitted a report dated April 11, 2013 from Dr. Denise M. Hawks, a Board-certified psychiatrist.

In an occupational disease claim dated June 5, 2013, appellant alleged that her neck and shoulders sustained fatigue and overexertion from prolonged data entry in the performance of duty. OWCP assigned this claim File No. xxxxxxx311.

On June 17, 2013 OWCP determined that it had created two separate cases for the same injury and combined the two cases under the File No. xxxxxx920.

In a June 24, 2013 decision, OWCP denied appellant's claim on the grounds that she had not established any employment factors related to an orthopedic neck condition, stating that her claim appeared to be for a neck condition rather than an emotional condition. It noted that her March 22, 2013 claim for occupational disease contained a statement that her condition occurred when she sustained a neck injury. OWCP stated that, in order to have her emotional condition considered, appellant must file a separate CA-2 claim and clearly indicate that she was claiming an emotional condition.

Because OWCP considered only appellant's claim for a neck condition in its June 24, 2013 decision, it did not make adequate findings regarding her statements alleging work factors relating to her emotional condition, or the probative value of Dr. Hawks' April 11, 2013 report.

The case will be remanded for OWCP for proper findings and a decision that adequately addresses appellant's claim for an emotional condition. After such further development as OWCP deems necessary, it should issue an appropriate decision.

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated June 24, 2013 is set aside and the case remanded for further action consistent with this order of the Board.³

Issued: May 22, 2014 Washington, DC

> Colleen Duffy Kiko, Judge Employees' Compensation Appeals Board

> Alec J. Koromilas, Alternate Judge Employees' Compensation Appeals Board

³ Richard J. Daschbach, Chief Judge, who participated in the preparation of this order, was no longer a member of the Board after May 16, 2014.