

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of BRENDA J. DAUGHERTY and U.S. POSTAL SERVICE,  
POST OFFICE, Jacksonville, FL

*Docket No. 98-193; Submitted on the Record;  
Issued August 3, 1999*

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DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
BRADLEY T. KNOTT

The issue is whether appellant has established that she developed an emotional condition in the performance of duty, causally related to compensable factors of her federal employment.

On October 2, 1996 appellant, then a 44-year-old modified general clerk, filed an occupational illness claim alleging that she developed severe headaches, choking, shaking, uncontrolled crying, depression and anxiety secondary to stress in her employment. Specifically appellant implicated the following factors of her employment: having no choice regarding her assignment; working in Jacksonville while her family resided in Cocoa, Florida.; living out of a suitcase for one and one-half years and incurring additional expenses; a grievance filed regarding her job and position; her requested transfer to a different geographical area; and receiving a reprimand for staying overtime.

By decision dated November 21, 1996, the Office of Workers' Compensation Programs rejected appellant's claim finding that she failed to implicate any compensable factors of employment in causing her condition.

By letter dated May 29, 1997, appellant realleged her former contentions as to implicated employment factors and added as implicated factors Mr. Morris R. Altman's remarks regarding appellant's competency/efficiency in front of Beckie McManaway and Jerry Neu, and her shift changes from her regular schedule of 2000 to 0450 hours, Tour 1, in June 1996 to a 30-day assignment to Tour 3, from 1350 to 2200 hours, and then to a Tour 2 assignment from 0600 to 1450 hours, during which she became symptomatic with tightness in her chest, heart palpitations, a choking feeling and severe headaches. The employing establishment did not contradict that appellant's changes in scheduling occurred.

In support of her claim, appellant submitted a May 14, 1997 report from a nonphysician, Robin Goldstein, Ed.D., which opined that her "mental disabilities are a direct result of being required to return to work in Jacksonville." Dr. A.O. Martinez, an internist, merely advised on

May 5, 1997 that appellant “was advised not to work since November 1996 due to severe emotional problems and stress.” A December 10, 1996 report from Dr. Jose Rafael Gonzalez, a Board-certified psychiatrist, noted that he saw appellant beginning September 16, 1996 for bouts of anxiety, erratic appetite, lack of inertia, poor concentration, sleep impairment, irritability, depression and crying spells. Dr. Gonzalez opined that appellant’s “present psychiatric condition is directly a result of the stressors, anxiety and pressures that she has been subjected to resulting from her present employment situation.” Dr. Gonzalez also checked “yes” to a September 26, 1996 form report question as to whether the diagnosed depressive disorder was causally related to an employment activity, but no further specifics were given.

By decision dated July 9, 1997, the Office denied modification of the prior decision finding that appellant had failed to implicate any compensable factors of employment.

The Board finds that appellant has implicated a compensable factor of employment such that the medical evidence must be considered.<sup>1</sup>

The Board has recognized that a rotating or fluctuating work shift or a reassignment made to a different shift schedule may constitute a compensable factor of employment in determining whether an injury has been sustained in the performance of duty.<sup>2</sup> In this case, appellant implicated her change in duty shifts in June 1996 from her regular schedule of 2000 to 0450 hours to 1350 to 2200 hours for a 30-day assignment, then to an assignment from 0600 to 1450 hours, after which she became symptomatic. Therefore, the Board must consider the medical evidence.

In the instant case, although appellant implicated a compensable factor of employment, rotating shifts, as causative in the development of her disabling emotional condition, none of the medical evidence she submitted is sufficient to establish that this compensable factor caused or contributed to the development of her diagnosed emotional condition.

In support of her claim, appellant submitted a report from Dr. Goldstein, Ed.D. However, the Board notes that Dr. Goldstein is a doctor of education and is not a “physician” as defined by 5 U.S.C. § 8101(2),<sup>3</sup> and that her report, therefore, does not constitute competent

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<sup>1</sup> To establish appellant’s occupational disease claim that she has sustained an emotional condition in the performance of duty, appellant must submit the following: (1) factual evidence identifying and supporting employment factors or incidents alleged to have caused or contributed to her condition; (2) rationalized medical evidence establishing that she has an emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to her emotional condition; *see Donna Faye Cardwell*, 41 ECAB 730 (1990). Rationalized medical opinion evidence is medical evidence that includes a physician’s rationalized opinion on the issue of whether there is a causal relationship between the claimant’s diagnosed condition and the implicated employment factors. Such an 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 appellant.

<sup>2</sup> *Peggy R. Lee*, 46 ECAB 527 (1995); *Elizabeth Pinero*, 46 ECAB 123 (1994); *Goldie K. Behymer*, 45 ECAB 508 (1994).

<sup>3</sup> 5 U.S.C. § 8101(2) defines physician as including “surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law.”

medical evidence to support appellant's claim.<sup>4</sup> Appellant further submitted a note from Dr. Martinez which merely advised that appellant was disabled due to severe emotional problems and stress. No causation was discussed and no relationship with specific factors of her federal employment was mentioned. Therefore, this note does not support appellant's compensable employment-related emotional claim.

Finally, appellant submitted two reports from Dr. Gonzalez, a psychiatrist, which attributed her current psychiatric condition generally to stressors, anxiety and pressures to which she had been subjected at work. No further specifics were provided and no specific mention of rotating shifts as being a causative factor was made. As general "stressors, anxiety and pressures" were not accepted as being compensable employment factors, any emotional condition resulting from them or from exposure to them would not be compensable under the Federal Employees' Compensation Act. Further, on Dr. Gonzalez's form report he merely checked "yes" to the question regarding causation with an employment factor without specifying what factor or factors were involved. As the Board has held, however, when a physician's opinion on causal relationship consists only of checking "yes" to a form question, that opinion has little probative value and is insufficient to establish causal relationship.<sup>5</sup> Appellant's burden includes the necessity of furnishing an affirmative opinion from a physician who supports his conclusion with sound medical reasoning. As Dr. Gonzalez did no more than check "yes" to a form question, his opinion on causal relationship is of little probative value and is insufficient to discharge appellant's burden of proof.

Consequently, the medical evidence of record fails to demonstrate that appellant sustained an emotional condition in the performance of duty, causally related to compensable factors of her federal employment.

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<sup>4</sup> *Theresa K. McKenna*, 30 ECAB 702 (1979).

<sup>5</sup> *E.g., Lillian M. Jones*, 34 ECAB 379 (1982).

Accordingly, the decisions of the Office of Workers' Compensation Programs dated November 21, 1996 and July 9, 1997 are modified to reflect that a compensable factor of employment was identified and are hereby affirmed as modified.

Dated, Washington, D.C.  
August 3, 1999

Michael J. Walsh  
Chairman

David S. Gerson  
Member

Bradley T. Knott  
Alternate Member