

On February 15, 2007 appellant, a 53-year-old administrative support assistant, filed an occupational disease claim alleging that she sustained stress-induced high blood pressure, dizziness, nausea, headaches and frequent chest pains as a result of her employment duties. She stated that she was required to assume the additional responsibilities of two employees, namely a

primary care administrative secretary on November 24, 2006 and a medical service administrative officer on January 5, 2007.

By letter dated March 9, 2007, the Office informed appellant that the information submitted was insufficient to establish her claim. It asked her to provide additional information, including details regarding employment-related conditions or incidents she believed contributed to her condition, as well as a comprehensive medical report containing a diagnosis and an opinion, with medical reasons, explaining how conditions of employment contributed to the diagnosed condition.

In an undated statement, appellant provided a chronological history of her alleged work-related stress. She stated that on March 2, 2004 the medical service and primary care service units merged. By January 5, 2007, appellant was performing the duties required by four positions, namely: medical service administrative officer; medical service secretary; primary care quality management (QM) administrative support assistant; and medical service QM administrative support assistant. She indicated that, as a result of the increase in her workload subsequent to the departure of the previous service secretary and administrative officer in November 2006 and January 2007, she experienced dizziness, nausea, chest pains and fatigue. The record contains an August 9, 2004 position description for administrative support assistant.

Appellant submitted notes and reports from her treating physician, Dr. Nathan T. Wood, Board-certified in the field of family medicine. In a report dated January 31, 2007, he stated: “[Appellant] is having work-related stress. This is significantly impacting her health. The patient needs a reduced workload to doing the work of one position at work.” On February 21, 2007 he diagnosed hyperlipidemia and prescribed lisinopril-hydrochlorothiazide for the treatment of high blood pressure. Dr. Wood noted that appellant had been experiencing chest pains for three weeks, and that she complained of nausea, high blood pressure, headaches, lightheadedness and weakness. On March 20, 2007 he stated that appellant was suffering from high blood pressure, which she believed was related to stress.

In a memorandum dated January 18, 2007 to Sheletha Davis of the employing establishment, appellant stated that she had been providing QM support to both primary care and medical services for 22 months and that she was unclear what her responsibilities were. She indicated that the situation had exacerbated her hypertension.

On January 31, 2007 appellant informed Dr. Bankim Bhatt, acting chief of the employing establishment’s medical service division, that she was experiencing severe stress as a result of being required to perform duties of QM clerk since March 2005, as well as the duties of the service secretary. She asked that the chief of staff expedite the selection process of the administrative officer, in order to relieve her of those additional responsibilities. In a memorandum dated January 31, 2007, Dr. Bhatt informed appellant that she was not expected to perform any additional duties as a result of employment vacancies. He stated that he had already selected a secretary and that she would be “on board soon.”

On April 4, 2007 the employing establishment controverted appellant’s claim. Dr. Bhatt stated that she had been clearly told to perform only the duties required of the position for which she was hired, and not to take on additional responsibilities.

Appellant submitted performance appraisals and self-evaluations, dated April 18, 2005 and January 17 and October 12, 2006, reflecting that she provided technical support to both primary care and medical services divisions. An inner-office memorandum dated July 17, 2006 reflected that, effective immediately, the medical service division would be temporarily realigned into two services, namely primary care and medical services. A memorandum from Barbara Rhodes to all CTX users explained that, under the realignment, medical service administrative and support staff would be divided equally between the two new services.

In a letter dated March 16, 2007, appellant stated that the division of services created a stressful situation, which required her to respond to requests from two different chiefs and to cover four different positions. She indicated that the position of medical service secretary was vacant for several months.

By decision dated August 27, 2007, the Office denied appellant's claim, finding that she had failed to establish a compensable factor of employment. On August 31, 2007 she requested an oral hearing.

In an undated statement, appellant alleged that she was required to take on new responsibilities when two coworkers left for new positions, and that she was abandoned by upper management with no one to perform the services of the lost employees. She also contended that her high blood pressure was a direct result of her increased job duties.

In a September 17, 2007 report, Dr. Wood stated that appellant was experiencing work-related stress "due to multiple jobs being placed on [her]." He opined that the situation was significantly impacting her health, and that her workload should be reduced, so that she was performing the duties of only one position.

Appellant submitted a November 1, 2007 performance appraisal, signed by Dr. Bankim, which reflected that she assumed the duties of the medical service secretary and administrative officer as previously alleged. In a January 15, 2008 statement, coworker Rita Hotz indicated that she observed appellant performing the duties of the medical service secretary and administrative officer, while the positions were vacant. Her functions included preparing timecard exception reminders, memoranda, SF52's, and "Congressional;" performing electronic employee clearances; arranging employee orientations; doing mail runs; and speaking to the directors; handling service documents and electronic menus for supply requests.

At the January 11, 2008 hearing, appellant testified that she was required to perform the duties of medical service secretary and administrative officer when the positions were vacated, because she was the only clerical person left. Even though she was told she was not responsible for the positions, she was the only employee available to perform the duties of the positions.

By decision dated March 28, 2008, the Office hearing representative modified the August 27, 2007 decision to reflect that appellant had established a compensable factor of employment, as she did experience an increase in her workload after the departure of the service secretary and administrative officer in the November 2006 and January 2007 time frame. However, finding that the medical evidence did not establish that appellant's emotional condition

was causally related to established factors of employment, the representative affirmed the denial of her claim.

### **LEGAL PRECEDENT**

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 illness has some connection with the employment but nevertheless does not come within the concept or coverage of workers' compensation. Where the medical evidence establishes that the disability results from an employee's emotional reaction to his or her regular or specially assigned employment duties or to a requirement imposed by the employing establishment, the disability comes within coverage of the Federal Employees' Compensation Act.<sup>1</sup> The same result is reached when the emotional disability resulted from the employee's emotional reaction to the nature of a claimant's work, or her fear and anxiety regarding her ability to carry out her duties.<sup>2</sup>

By contrast, there are disabilities having some kind of causal connection with the employment that are not covered under workers' compensation law because they are not found to have arisen out of employment, such as when disability results from an employee's fear of a reduction-in-force, or frustration from not being permitted to work in a particular environment or to hold a particular position.<sup>3</sup> Moreover, although administrative and personnel matters are generally related to employment, they are functions of the employer and not duties of the employee. Thus, the Board has held that reactions to actions taken in an administrative capacity are not compensable unless it is shown that the employing establishment erred or acted abusively in its administrative capacity.<sup>4</sup>

When working conditions are alleged as factors in causing disability, the Office, as part of its adjudicatory function, must make findings of fact regarding which working conditions are deemed compensable factors of employment, which may be considered by a physician when providing an opinion on causal relationship, and which are not deemed factors of employment and may not be considered. When a claimant fails to implicate a compensable factor of employment, the Office should make a specific finding in that regard. If a claimant does implicate a factor of employment, the Office should then determine whether the evidence of record substantiates that factor.<sup>5</sup> When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, then it must base its decision on an analysis of the medical evidence.<sup>6</sup> As a rule, allegations alone by a claimant are insufficient to establish a factual basis for an emotional condition claim, but rather,

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Lillian Cutler*, 28 ECAB 125, 129 (1976).

<sup>3</sup> See *Ronald K. Jablanski*, 56 ECAB 616 (2005). See also *Peter D. Butt, Jr.*, 56 ECAB 117 (2004). *Barbara J. Latham*, 53 ECAB 316 (2002).

<sup>4</sup> See *Charles D. Edwards*, 55 ECAB 258 (2004); see also *Ernest J. Malagrida*, 51 ECAB 287, 288 (2000).

<sup>5</sup> *Margaret S. Krzycki*, 43 ECAB 496 (1992).

<sup>6</sup> See *Charles D. Edwards*, *supra* note 4.

must be corroborated by the evidence.<sup>7</sup> Mere perceptions and feelings of harassment will not support an award of compensation.<sup>8</sup>

A claimant has the burden of establishing by the weight of the reliable, probative and substantial evidence that an emotional condition was caused or adversely affected by her employment.<sup>9</sup> 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 a causal relationship.<sup>10</sup>

### ANALYSIS

Appellant alleged that she developed hypertension and stress as a result of an increase in her workload after the departure of the service secretary and administrative officer. The Board has held that emotional reactions to situations in which an employee is trying to meet her regularly or specially assigned employment duties, or a requirement imposed by the employing establishment, are compensable.<sup>11</sup> The evidence of record establishes that appellant did experience an increase in her workload while performing many functions of the service secretary and administrative officer in the November 2006 and January 2007 timeframe. Given that these duties were part of her employment duties, the Office properly found that she established a compensable employment factor.<sup>12</sup>

The Office found that, although appellant had established a compensable factor of employment, she failed to provide sufficient medical evidence to establish that she sustained an emotional condition due to the established employment factor. The Board finds that this case is not in posture for a decision as to the issue of causal relationship.

Appellant submitted evidence supporting that her diagnosed disorder is causally related to the accepted compensable employment factor.<sup>13</sup> On January 31, 2007 Dr. Wood stated: “[Appellant] is having work-related stress. This is significantly impacting her health. The patient needs a reduced workload to doing the work of one position at work.” On February 21, 2007 he diagnosed hyperlipidemia and prescribed lisinopril-hydrochlorothiazide for the treatment of high blood pressure. He noted that appellant had been experiencing chest pains for three weeks, and that she complained of nausea, high blood pressure, headaches,

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<sup>7</sup> *Charles E. McAndrews*, 55 ECAB 711 (2004); see also *Arthur F. Hougens*, 42 ECAB 455 (1991) and *Ruthie M. Evans*, 41 ECAB 416 (1990) (in each case, the Board looked beyond the claimant’s allegations to determine whether or not the evidence established such allegations).

<sup>8</sup> *Beverly R. Jones*, 55 ECAB 411 (2004).

<sup>9</sup> See *Charles D. Edwards*, *supra* note 4.

<sup>10</sup> See *Ronald K. Jablanski*, *supra* note 3; *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

<sup>11</sup> See *Tina D. Francis*, 56 ECAB 180 (2004). See also *Georgia F. Kennedy*, 35 ECAB 1151, 1155 (1984); *Joseph A. Antal*, 34 ECAB 608, 612 (1983).

<sup>12</sup> *Lillian Cutler*, *supra* note 2.

<sup>13</sup> See *William P. George*, 43 ECAB 1159, 1168 (1992).

lightheadedness and weakness. On March 20, 2007 Dr. Wood stated that appellant was suffering from high blood pressure, which she believed was related to stress. In a September 17, 2007 report, he stated that appellant was experiencing work-related stress “due to multiple jobs being placed on [her].” Dr. Wood opined that the situation was significantly impacting her health, and that her workload should be reduced, so that she would be performing the duties of only one position.

Although Dr. Woods’ reports are not sufficiently detailed to meet appellant’s burden of proof, they raise an uncontroverted inference of causal relationship between her condition and the accepted compensable employment factor, and are sufficient to require further development of the medical evidence and the case record by the Office.<sup>14</sup> 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.<sup>15</sup> Additionally, the Board notes that in this case the record contains no medical opinion contrary to her position. The Board will remand the case for further development of the medical evidence. On remand, the Office should refer appellant and a statement of accepted facts to an appropriate Board-certified specialist for a rationalized medical opinion on whether her emotional condition is causally related to the accepted employment factor and, if so, if there is any causally-related disability.<sup>16</sup> After such further development as the Office deems necessary, an appropriate decision should be issued.

### **CONCLUSION**

The Board finds that this case is not in posture for decision as to whether or not appellant sustained an injury in the performance of duty.

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<sup>14</sup> See *Felix Flecha*, 52 ECAB 268 (2001); *John J. Carlone*, 41 ECAB 354 (1989) (finding that the medical evidence was not sufficient to discharge appellant’s burden of proof but remanding the case for further development of the medical evidence given the uncontroverted inference of causal relationship raised).

<sup>15</sup> *John J. Carlone*, *supra* note 14; *William J. Cantrell*, 34 ECAB 1223 (1983).

<sup>16</sup> See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.895.3(d)(6) (June 1995) (a claim for an emotional condition must be supported by an opinion from a psychiatrist or a clinical psychologist before the condition can be accepted).

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 28, 2008 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: November 5, 2008  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board