

FACTUAL HISTORY

On July 20, 2012 appellant, then a 40-year-old nurse, filed an occupational disease claim alleging that she sustained headaches, anxiety, and an inability to concentrate due to harassment and intimidation by her supervisors.

In a statement dated July 27, 2012, appellant related that Tammy Welcome, the extended care line nurse executive, requested a meeting. When she went to Ms. Welcome's office on July 26, 2011, the union president was also present. Ms. Welcome related that she wanted to speak with appellant about certain incidents, including instructing a nurse to give pain medication in a rude manner and the fact that another staff member did not want to work with her. Appellant responded that she wanted to make sure a cancer patient received prompt pain medication. She told Ms. Welcome that she believed management was more interested in numbers than skill in granting overtime requests. At the July 26, 2011 meeting, appellant became upset because she "felt insulted and cornered, along with not [being] given a chance to adequately prepare for such an encounter..." Ms. Welcome told appellant that she was disappointed in her because she stated that she was unhappy and she replied that she was not used to working in a location with serious staffing difficulties. Appellant questioned whether Ms. Welcome thought she was a bully after Ms. Welcome gave appellant pamphlets on bullying but Ms. Welcome replied that she gave the bullying information to all employees when addressing behavior issues. Ms. Welcome advised appellant to get better acquainted with her coworkers. On July 29, 2011 she gave appellant an inspirational page from her day planner regarding the importance of mental attitude.

On September 1, 2011 appellant informed the nurse manager that she had missed lunch on August 22, 2011 because of staffing issues and requested overtime. The nurse manager told her that there was nothing she could do. On October 3, 2011 Ms. Welcome informed appellant that she was doing well and gave her a bonus.

On November 22, 2011 appellant questioned why she had only received satisfactory on her proficiency report. Ms. Welcome responded that it was because appellant was still getting used to the employing establishment. She helped appellant write her self-evaluation because the nurse manager was too busy. Ms. Welcome confided to appellant that she intimidated the nurse manager and asked that she try to get along with her better. Appellant borrowed a book about leadership from Ms. Welcome. When she asked the nurse manager how to improve her performance evaluation, the nurse manager laughed and told her that she was not going to achieve her mark the following year because she did not believe that it was within her capability. Appellant told the nurse manager she would meet her mark and she stated okay.

On February 27, 2012 the nurse manager asked her for a reasonable accommodation form. On March 5, 2012 appellant had to wear an open-toe shoe following surgery. Ms. Welcome told appellant that she could only pass medicine rather than care for patients because of her footwear. She indicated that the employing establishment denied appellant's reasonable accommodation request because it was a temporary request. The nurse manager did not respond to e-mails sent on March 6 and 7, 2012 about her reasonable accommodation request and request for clarification of job duties.

On March 7, 2012 the nurse manager assigned appellant work even though she could not do patient care. Ms. Welcome told appellant later that she should follow the nurse manager's instructions. She again advised appellant to work on her relationship with the nurse manager and not to yell what she purportedly stated to the nurse manager. Ms. Welcome also told appellant that her request for reasonable accommodation was not denied, but that she had not sent it since appellant was only waiting for a shoe.

On May 25, 2012 appellant was unable to contact the nurse manager to tell her that she was the only registered nurse and had only an orientee for assistance who could not access the electronic data base. Consequently, she had to pass medication for the whole unit. Ms. Welcome told appellant to be a team player and that she was sure they would find someone else. Appellant worked as the only nurse from 7:30 a.m. to 9:30 a.m. The nurse manager asked if she would stay until 8:00 p.m. that evening and she stated no. Ms. Welcome questioned why appellant could not help the unit "in a time of need." She stated that she would stay late so she would be seen as a team player. On May 29, 2012 appellant told Ms. Welcome that the wife of a resident hit her hands on the nurses' counter and stated that her husband's roommate was using the bathroom without closing the door. She told the wife that it was okay since they were not in the room at the time and the wife called her a "bitch" and told her not to be "so mean." Ms. Welcome told appellant that she "had failed the family and should have immediately gotten up and closed the bathroom door." Appellant questioned whether that was the best action given the diagnosis of the roommate. Ms. Welcome informed appellant that she had failed her duty of customer service and that she would apologize to the wife if she spoke with her. Later that day, appellant asked the nurse manager why she had not responded to her high priority requests for days off, and she advised that it was because appellant had not indicated why she wanted the day off. On June 4, 2012 she and a coworker talked about working on scheduling, but the nurse manager accused her of being the only one unhappy about the schedule.

On June 7, 2012 the nurse manager told appellant that patients had complained about her since early May 2012. One spouse stated that appellant was "rude and disrespectful." One resident stated that she refused to empty his urinal. Appellant told the nurse manager that it was a foley bag rather than a urinal and that she had asked if he wanted her to teach him how to empty it but he did not. The nurse manager advised that it might be the manner in which she gave the information. She felt that appellant had bullied her the day before about the schedule and wanted everything her own way. The nurse manager told appellant that she was going to write her up. Appellant spoke with Ms. Welcome about being written up, who advised appellant to negotiate with the nurse manager and that she could have a union representative present. Ms. Welcome told her that the reprimand would not be part of the permanent file and advised her to "develop better coping measures and work on [her] interpersonal relationships." Appellant told Ms. Welcome that she was afraid to buy a home because she was afraid that she might lose her job. On June 8, 2012 the nurse manager informed appellant that patients did not want her to take care of them and that she was always defensive.

On July 10, 2012 the nurse manager asked appellant to admit a patient. The nurse manager told appellant that she was previously instructed not to do admissions with open-toe shoes, but the nurse manager told her to do the admission and take a nursing assistant with her to help. On July 11, 2012 the nurse manager advised appellant that she had called her home to see

if she was there and her daughter answered. She asked the nurse manager if she had something to tell appellant and she stated no.

On June 25, 2012 the nurse manager asked appellant to transfer a nursing assistant to another unit for the morning. She told the nurse manager of her selection and changed the assignments of the nursing assistants. The nursing assistants spoke with each other and one said that it was "just too much." The nurse manager asked her if she had told staff why she made the changes and appellant responded that she "did not feel the need for an explanation since pulling staff to other units is usually done to accommodate staffing issues...." She stated that an assistant told her that appellant stated that it was her assignment and to "just do it." Appellant denied speaking that way. She told the nurse manager that some staff slept in the medication room. Appellant told the union that she wanted to transfer. The union representative spoke with Ms. Welcome about the potential transfer. Appellant was worried because she knew that Ms. Welcome did not want to hear that she desired another position. The nurse manager called her after appellant stopped work and stated that the charge nurse did not know that she was leaving. She later remembered that appellant told her that she was leaving early. On July 5, 2012 the charge nurse asked appellant why she had returned to work. A nurse manager for another unit told her that she needed to take the reasonable accommodation form to her physician for completion. Appellant told the nurse manager that it was not what she did the last time. On July 9, 2012 the nurse manager for her unit gave her a form for her physician to complete so that they knew her work restrictions. She told the union president that she wanted to give appellant "a written-verbal reprimand." Appellant asked for union representation.

On July 17, 2012 a nurse executive told her to use hand sanitizer when leaving a room. Appellant told her that she had used hand sanitizer before entering. Ms. Welcome later told appellant not to use gloves in the hallway. She also advised appellant that various items should not be left in the shower room.

Appellant related that her feeling of anxiety, fear over her job, headaches, loss of appetite, insomnia, and intermittent diarrhea and emesis began on July 25, 2011 when Ms. Welcome told her sarcastically that she wanted to meet with her. Her stress increased on July 26, 2011 when she felt "cornered" when Ms. Welcome had a union representative "sit in as she gave [her] what I felt was 'a good talking to.'" Appellant was sorry that she had transferred to the unit and believed that Ms. Welcome was "slowly tearing me down by means of verbal intimidation and harassment, with intimidating body stances directed towards me, along with critical remarks...." She began to fear that each time Ms. Welcome or the nurse manager talked to her "they would have something negative, hurtful, or bothersome to say to me."

In an addendum dated July 30, 2012, received by OWCP on August 7, 2012, appellant related that on October 12, 2011 the nurse manager asked her to go home and come back and work the evening shift. She refused, but later that morning the nurse manager asked her why she was still there. Appellant again refused to work the night shift, and the nurse manager thanked her and left. On June 25, 2012 she noted that the union had told Ms. Welcome that she was unhappy. Appellant submitted a request for a transfer.

On August 1, 2012 the employing establishment controverted the claim based on the lack of medical evidence.

In a statement dated August 13, 2012, Ms. Welcome related that appellant asked her to prevent the nurse manager from giving her a letter of counseling. She told appellant that she would not do that but that “counseling would not prevent her from completing her probationary period” if she provided good service to the customers. After that appellant began to look for other places to work and filed the occupational disease claim. In July 2012, she received a letter from the spouse of a veteran describing inadequate customer service by appellant. In July 2011, she held a meeting with appellant and the union president because appellant “was complaining to everyone how she wanted to leave the unit and was sorry she had agreed to come to the unit.” Staff regularly complained that she was rude and not a “team player.” Ms. Welcome shared her own experiences with appellant to try to get her to improve personal dealings with management and staff. She stated, “After many back and forth conversations with [appellant] (some initiated by her), this writer shared a printed message that personally helped the writer with the intent that [she] would use the power of positive thinking in how she approached her role on the unit while working with other staff.” Ms. Welcome was not aware that appellant had no lunch break on August 22, 2012 and noted that she had to notify a manger if she had no lunch break. Her performance did not warrant higher than a satisfactory as she was not getting along well with staff or having a significant positive impact on patients. Appellant did not need to submit a reasonable accommodation request for her foot surgery because it was a temporary problem and not a disability. Ms. Welcome related that, while there was sometimes “tight staffing due to call-ins,” management assisted in providing coverage. Appellant was not pressured to work overtime but did indicate on numerous occasions that she wanted to be considered for possible overtime work. Ms. Welcome related that appellant told her not to challenge the nurse manager “when requested to perform tasks within her scope of practice and within her temporary restrictions.” In May 2012, appellant told Ms. Welcome that a patient’s family was upset with her and Ms. Welcome, after hearing about the incident, told her “that she did not give the best customer service to the family and could understand the wife getting upset, through the choice of words the wife used was not condoned.” Two families complained of the care provided by appellant. Ms. Welcome was not aware of appellant wearing an open-toe boot a second time.

On August 23, 2012 appellant submitted a copy of a torn page from a day planner given to her by Ms. Welcome on July 29, 2011. It contained a quote from Thomas Jefferson that stated, “Nothing can stop the man with the right mental attitude from achieving his goal; nothing on earth can help the man with the wrong mental attitude.” Appellant also submitted an abstract about bullying by nurses in the workplace.

In an addendum dated August 23, 2012, appellant related that on July 11, 2012 a counselor with the Employee Assistance Program told her that she could not help her. On July 9, 2012 the nurse manager requested that appellant have her physician complete a document regarding her work restrictions. Appellant told the nurse manager that she did not have an appointment with her physician until the following week and the nurse manager told her to have it completed then.

On August 25, 2012 appellant related that she initially noticed her anxiety, headaches, and inability to concentrate on July 25, 2011. Her condition worsened “with repeated and continuous verbal intimidation and harassment, along with intimidating body stance toward me from care line nurse executive, in addition to part verbal intimidation, harassment and berating

from unit 1C nurse manager.” Appellant was afraid of losing her job and did not want to think about working on the extended care line or being with Ms. Welcome or the nurse manager.

By decision dated January 7, 2013, OWCP denied appellant’s emotional condition claim. It found that she had not established any compensable factors of employment.

On January 31, 2013 appellant requested an oral hearing. Following a preliminary review, the hearing representative found that the case was not in posture for a hearing and vacated the January 7, 2013 decision. She found that OWCP did not make proper findings of fact addressing all of her allegations.

In a decision dated June 14, 2013, OWCP denied appellant’s claim after finding that she had not established any compensable work factors. On June 24, 2013 appellant requested an oral hearing.

At the telephone hearing, held on November 20, 2013, appellant related that she experienced stress and anxiety after being “singled out” and given the quote by Mr. Jefferson, especially since it came shortly after a meeting about her performance. She noted that she had factually established that her supervisor gave her the quote by Mr. Jefferson. In July 2011, appellant became concerned that Ms. Welcome believed that appellant was a bully. On July 7, 2012 the nurse manager accused appellant of bullying her about the schedule. Appellant related that when she initially wore open-toed shoes after surgery she could only pass medication. The nurse manager gave appellant a document for her physician to complete that was unidentified. She told the union president that she wanted to transfer. The union president told Ms. Welcome about the transfer request and appellant felt “bullied and harassed and made to feel fearful...” She did not receive any disciplinary action. When appellant transferred to the union she did not realize that she might be the only nurse with 30 patients. She felt that if she alerted management to the staffing problem there would be “implied threats.” Appellant related that a patient with mental problems used the bathroom with the door open and the wife of his roommate complained even though she and her husband were out in the hall. She told the wife it was okay since they were in the hallway and she pounded the desk and called her a bitch. Ms. Welcome told appellant that she had failed even though she believed that she had appropriately dealt with the situation.

In a decision dated February 6, 2014, the hearing representative affirmed the June 14, 2013 decision. She found that appellant had not established either harassment or error or abuse by the employing establishment in administrative matters.

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 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 or her regular or specially assigned duties or to a requirement imposed

by the employment, the disability comes within the coverage of FECA.² 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 or her frustration from not being permitted to work in a particular environment or to hold a particular position.³

Administrative and personnel matters, although generally related to the employee's employment, are administrative functions of the employing establishment rather than the regular or specially assigned work duties of the employee and are not covered under FECA.⁴ However, the Board has held that where the evidence establishes error or abuse on the part of the employing establishment in what would otherwise be an administrative matter, coverage will be afforded.⁵ In determining whether the employing establishment has erred or acted abusively, the Board will examine the factual evidence of record to determine whether the employing establishment acted reasonably.⁶

For harassment or discrimination to give rise to a compensable disability under FECA, there must be evidence introduced, which establishes that the acts alleged or implicated by the employee did, in fact, occur. Unsubstantiated allegations of harassment or discrimination are not determinative of whether such harassment or discrimination occurred.⁷ A claimant must establish a factual basis for his or her allegations with probative and reliable evidence. Grievances and Equal Employment Opportunity complaints, by themselves, do not establish that workplace harassment or unfair treatment occurred.⁸ The issue is whether the claimant has submitted sufficient evidence under FECA to establish a factual basis for the claim by supporting his or her allegations with probative and reliable evidence.⁹ The primary reason for requiring factual evidence from the claimant in support of his or her allegations of stress in the workplace is to establish a basis in fact for the contentions made, as opposed to mere perceptions of the claimant, which in turn may be fully examined and evaluated by OWCP and the Board.¹⁰

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors in causing a condition or disability, OWCP, 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

² *Id.*; *Trudy A. Scott*, 52 ECAB 309 (2001); *Lillian Cutler*, 28 ECAB 125 (1976).

³ *Gregorio E. Conde*, 52 ECAB 410 (2001).

⁴ *See Matilda R. Wyatt*, 52 ECAB 421 (2001); *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 556 (1991).

⁵ *See William H. Fortner*, 49 ECAB 324 (1998).

⁶ *Ruth S. Johnson*, 46 ECAB 237 (1994).

⁷ *See Michael Ewanichak*, 48 ECAB 364 (1997).

⁸ *See Charles D. Edwards*, 55 ECAB 258 (2004); *Parley A. Clement*, 48 ECAB 302 (1997).

⁹ *See James E. Norris*, 52 ECAB 93 (2000).

¹⁰ *Beverly R. Jones*, 55 ECAB 411 (2004).

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

ANALYSIS

Appellant alleged that she sustained an emotional condition as a result of a number of employment incidents and conditions. OWCP denied her emotional condition claim on the grounds that she 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 FECA.

Appellant did not attribute her condition to the performance of her regular or specially assigned work duties or out of a specific requirement imposed by her employment under *Cutler*.¹³ Rather, she contended that she experienced stress due to actions of her supervisors. As noted in *McEuen*,¹⁴ complaints about the manner in which a supervisor performs her duties or the manner in which a supervisor exercises her discretion falls outside the scope of coverage provided by FECA. A manager's style is not a compensable factor of employment. It must be factually established that the manager committed error or abuse to support a compensable factor pertaining to any administrative or personnel matter.

Appellant attributed her condition, in part, to potential disciplinary action and discussions about her job performance. Discussions of job performance and disciplinary actions are considered administrative matters and not covered under FECA unless the evidence discloses that the employing establishment acted unreasonably or abusively.¹⁵ Appellant related that Ms. Welcome called her into a meeting with herself and the union president on July 26, 2011 to talk about performance issues. Ms. Welcome told appellant that she instructed a nurse to give pain medication in a rude tone and that other staff did not want to work with her. She also expressed disappointment with appellant for saying she was unhappy on the unit. Ms. Welcome gave appellant pamphlets on bullying. On July 29, 2011 she gave appellant an inspirational quote about the importance of a good mental attitude. On May 29, 2012 Ms. Welcome told appellant that she had failed to properly deal with the spouse of a patient who complained about another patient not closing the door of his bathroom. The nurse manager questioned why appellant refused to empty a patient's urinal. Appellant advised that the patient had a catheter

¹¹ *Dennis J. Balogh*, 52 ECAB 232 (2001).

¹² *Id.*

¹³ *See supra* note 2.

¹⁴ *See Thomas D. McEuen*, *supra* note 4.

¹⁵ *See David C. Lindsey, Jr.*, 56 ECAB 263 (2005); *Lori A. Facey*, 55 ECAB 217 (2004); *Sherry L. McFall*, 51 ECAB 436 (2000).

and she offered to teach him to empty it. The nurse manager told appellant the problem might be her manner of speaking. She related that appellant had bullied her about the schedule and advised that she was going to provide a written reprimand.

In response to appellant's allegations, Ms. Welcome related that appellant met with her in July 2011 because she was telling everyone that she wanted to leave and because staff complained of her rudeness and lack of cooperation. In May 2012, she told appellant that she did not properly respond to concerns from a wife of a patient but did not condone the words used by the wife. The nurse manager shared an inspirational message with appellant that had helped her maintain the proper attitude. She advised that appellant would be written up but she did not receive disciplinary action. Appellant has not submitted evidence of any error or abuse by her supervisors in discussing her job performance or informing her of potential disciplinary action. Accordingly, appellant did not establish a compensable work factor.¹⁶

Appellant further alleged that the nurse manager did not approve her request for high priority leave, that management wanted additional information from appellant's physician about work restrictions, and that Ms. Welcome did not approve appellant's request for reasonable accommodation. Although the handling of leave requests, requests for medical documentation, and matters involving reasonable accommodation are generally related to the employment, they are administrative functions of the employing establishment and not a duty of the employee and thus only compensable where the evidence discloses error or abuse.¹⁷ Ms. Welcome related that it was not necessary to approve the request for reasonable accommodation given the temporary nature of appellant's disability. Appellant indicated that the nurse manager denied her leave request because she did not provide a reason for the request and that management wanted additional information regarding her work restrictions. Such actions do not rise to the level of error or abuse by the employing establishment in administrative matters as there is no evidence that these actions were unreasonable.¹⁸

Appellant also attributed her stress to receiving only a satisfactory performance appraisal. Performance ratings are administrative matters and not compensable absent a showing of error or abuse by the employing establishment.¹⁹ Ms. Welcome explained that appellant's performance was satisfactory but did not warrant a higher rating because she did not get along with staff or positively impact patients. Appellant has not submitted any evidence supporting that the employing establishment erred in assessing her performance.

Appellant related that the nurse manager assigned her work that Ms. Welcome told appellant that she could not do with an open-toe shoe. The nurse manager advised appellant to take a nursing assistant with her to perform the tasks. Ms. Welcome later told appellant to follow the instructions given by the nurse manager. She also complained to the nurse manager about scheduling but was told that appellant was the only one complaining and that she was

¹⁶ See *Jeral R. Gray*, 57 ECAB 611 (2006).

¹⁷ *Lori A. Facey*, 55 ECAB 217 (2004); *James P. Guinan*, 51 ECAB 604 (2000).

¹⁸ See *C.S.*, 58 ECAB 137 (2006).

¹⁹ See *David C. Lindsey, Jr.*, *supra* note 15.

being a bully about the schedule. Ms. Welcome instructed appellant to use hand sanitizer when leaving a room and not to use gloves in the hallway. She also told appellant that certain items should not be left in the shower room. Ms. Welcome related that she told appellant that not to question her assignments from the nurse manager when they were within her job duties. Although the assignment of work duties is generally related to the employment, it is an administrative function of the employing establishment and not a duty of the employee and thus considered an employment factor where the evidence discloses error or abuse on the part of the employing establishment.²⁰ Appellant has not provided any evidence of error or abuse by the employing establishment in the assignment of work or matters involving scheduling and thus has not established a compensable employment factor.

Appellant further indicated that she desired a transfer. The Board has held, however, that denials by the employing establishment of a request for a different job, promotion, or transfer are not compensable factors of employment under FECA, as they do not involve an employee's ability to perform his or her regular or specially assigned duties but rather constitute a desire to work in a different position.²¹

Appellant alleged that Ms. Welcome and the nurse manager engaged in verbal harassment, constantly criticized her, and used intimidating body stances. If disputes and incidents alleged as constitutes harassment and discrimination by supervisors and coworkers are established as occurring and arising from the employee's performance of her regular duties, these could constitute employment factors.²² The evidence, however, must establish that the incidents of harassment and discrimination occurred as alleged.²³ Appellant related that Ms. Welcome gave her a quote that made her feel anxious and that she felt cornered when Ms. Welcome met with her and a union representative in July 2011 about her position. The nurse manager laughed when appellant told her that she would get a better performance appraisal the following year, accused her of being a bully, and told her she was always defensive. Appellant changed the schedule of the nursing assistants on June 25, 2012 as requested by Ms. Welcome but was later criticized by the nurse manager for failing to explain the reason for the change to the nursing assistants. Appellant, however, has not factually established that the nurse manager laughed at her about her performance appraisal. She further has submitted no evidence corroborating her allegation that Ms. Welcome or the nurse manager verbally harassed her, unduly criticized her or used a threatening body posture. As noted, mere perceptions of harassment are not compensable.²⁴ Additionally, while appellant factually established that Ms. Welcome gave her an inspirational quote, she has not shown how that would rise to the level of harassment or otherwise fall within coverage of FECA. Thus, she has not established a compensable employment factor.

²⁰ *Lori A. Facey*, 55 ECAB 217 (2004).

²¹ *See Charles D. Edwards*, *supra* note 8.

²² *Janice I. Moore*, 53 ECAB 777 (2002).

²³ *Id.*

²⁴ *See M.D.*, 59 ECAB 211 (2007); *Jack Hopkins, Jr.*, 42 ECAB 818 (1991).

Appellant related that she felt pressured to work overtime because of staffing issues at the employing establishment. She also indicated that on one day she was the only nurse available for two hours. On August 22, 2011 appellant was not able to take a lunch break and so on September 1, 2011 requested overtime from the nurse manager. Overwork may constitute a compensable factor of employment if a claimant submits sufficient evidence to substantiate this allegation.²⁵ The Board finds, however, that appellant has not established a factual basis for this allegation. Ms. Welcome related that appellant advised that she wanted to be considered for overtime work. She denied that appellant was pressured to work overtime and also indicated that appellant needed to inform management if she was not able to take a lunch break. Appellant has not submitted evidence corroborating her claim of overwork and thus has not established a compensable work factor.

Appellant also maintained that she experienced stress because she was afraid that she would lose her job. The Board has held, however, that disability is not compensable when it relates to the fear of losing one's job or job insecurity.²⁶ Appellant thus has not met her burden of proof in establishing a compensable work factor in this regard.

As appellant has not established any compensable work factors, she has not established her claim for an emotional condition.²⁷

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128 and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not established that she sustained an emotional condition in the performance of duty.

²⁵ See *Bobbie D. Daly*, 53 ECAB 691 (2002).

²⁶ *Robert Breeden*, 57 ECAB 622 (2006); *Purvis Nettles*, 44 ECAB 623 (1993).

²⁷ As appellant has failed to establish a compensable employment factor, the Board need not address the medical evidence; see *Margaret S. Krzycki*, 43 ECAB 496 (1992).

ORDER

IT IS HEREBY ORDERED THAT the February 6, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 23, 2015
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board