

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CAROLYN J. CROSS and DEPARTMENT OF AGRICULTURE,
AGRICULTURAL MARKETING SERVICE, Modesto, CA

*Docket No. 97-1764; Submitted on the Record;
Issued December 1, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has established that she was disabled from January 22, 1993 to August 9, 1995 due to her accepted condition of temporary aggravation of hypertension.

On March 23, 1995 appellant, then a 51-year-old billings and collections clerk, filed a notice of occupational disease, claiming that her depression/anxiety disorder was caused by supervisory harassment at work since 1989. Appellant explained that she developed an ulcer in 1990 and suffered from severe asthma, migraine headaches, nightmares, hypertension and panic attacks.

In support of her claim, appellant submitted a detailed statement describing her work, medical treatment and interactions with her immediate supervisor, Loraine Dyches and the regional director, Sam Traylor, from January 2, 1992 to March 31, 1995. Appellant also submitted corroborative statements from two coworkers, Lori Korock and Michael W. Pacheco and reports from Dr. Robert M.T. Chin, Board-certified in family practice and Dr. Robert L. Morgan, a licensed clinical psychologist.

On November 1, 1995 the Office referred appellant, along with a statement of accepted facts and a list of questions, to Dr. Loren A. Olson, a Board-certified psychiatrist and to Dr. John C. Heffernan, Board-certified in internal medicine, for second opinion evaluations.¹

On April 15, 1996 the Office denied appellant's claim on the grounds that her emotional condition was not causally related to employment factors.² The Office relied on Dr. Olson's

¹ Appellant relocated to Des Moines, Iowa to a new position with the employing establishment.

² The Board's scope of review is limited to those final decisions issued within one year prior to the filing of the appeal. 20 C.F.R. §§ 501.2(c), 501.3(d)(2). Inasmuch as appellant filed her notice of appeal on April 28, 1997, the only decision before the Board is that dated September 5, 1996. Thus, the April 15, 1996 decision denying appellant's claim for an emotional condition is not before the Board.

December 1, 1995 report in which he diagnosed major depression, but concluded that only events not related to work were sufficient to support the disorder, which was now in remission.

Based on Dr. Heffernan's December 6, 1995 examination of appellant, the Office accepted appellant's claim for temporary aggravation of hypertension, which ended on September 5, 1995 when appellant transferred to a new position with the employing establishment. On September 5, 1996 the Office denied appellant's claim for wage loss from January 1, 1993 through August 9, 1995 on the grounds that the medical evidence was insufficient to establish that appellant's disability from work was caused by her accepted condition of temporary aggravation of hypertension.

The Board finds that appellant has failed to meet her burden of proof in establishing that her accepted condition of temporary aggravation of hypertension caused any period of disability for work from January 22, 1993 to August 9, 1995.

An employee seeking benefits under the Federal Employees' Compensation Act³ 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 filed within the applicable time limitation of the Act, that an injury⁴ was sustained in the performance of duty as alleged and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.⁵ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.⁶

In the present case, the Office did accept that appellant sustained temporary aggravation of hypertension during the period January 22, 1993 to August 9, 1995 causally related to her employment. The Office advised appellant by letter dated July 15, 1996 that she would have to submit medical evidence to support any dates of disability during this time period due to the accepted condition. The Office properly noted and advised appellant that the medical evidence of record showed that she was often off from work during this time period due to an emotional condition, which was not work related. The Office advised appellant that it was therefore necessary for her physician to clearly support each date of disability as being related to the hypertension condition, rather than appellant's other diagnoses. Appellant did not submit any medical evidence in response to the Office's request which specifically addressed the dates appellant was disabled due to her accepted hypertension condition.

³ 5 U.S.C. 8101 *et seq.* (1974).

⁴ Section 8101(5) of the Act defines "injury" in relevant part as follows: "'injury' includes, in addition to injury by accident, disease proximately caused by employment." Section 10.5(a)(14) of Title 20 of the Code of Federal Regulations further defines "injury" in relevant part as follows: "'Injury' means a wound or condition of the body induced by accident or trauma, and includes a disease or illness proximately caused by the employment for which benefits are provided under the Act."

⁵ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁶ *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

The evidence of record indicates that appellant's psychologist, Robert Morgan reported on several occasions during 1993 that appellant was unable to work for periods of time. Dr. Morgan noted, however, that he was treating appellant for stress, depression and anxiety. His reports do not support a finding that appellant was disabled on any specific date due to the accepted condition of temporary aggravation of hypertension.

Appellant also submitted several reports from Dr. Chin. Dr. Chin indicated, as in his report dated April 18, 1995, that he was treating appellant for her hypertension, as well as stress-induced headaches and depression. Dr. Chin noted that appellant's blood pressure medication required monitoring and that she also experienced multiple somatic complaints including headache, dizziness, nausea, vomiting and fatigue, for which he had referred her to mental health counseling. While Dr. Chin did recommend that appellant stay off work on occasion, he never explained whether the accepted condition of temporary aggravation of hypertension would have caused appellant to be disabled from work, or why this condition would have caused disability. His reports suggest that appellant may have been unable to work due to her multiple somatic complaints. His reports are not sufficient to establish that appellant was disabled on any specific date due to the accepted condition.

Dr. Heffernan stated in his April 15, 1996 report, that appellant had significant stress and anxiety related to her employment, which "exacerbated her hypertension." That plus her headaches necessitated absences from work. However, he offered no explanation of the causal relationship between appellant's work absences and her hypertension. Nor did he distinguish among the diagnoses of anxiety, headaches and hypertension as the cause of disability. Thus, while his report supported that the accepted condition of temporary aggravation of hypertension was work related, his report was not sufficiently detailed to establish any dates of disability due to this accepted condition.

As appellant did not submit the necessary medical evidence to establish that she was disabled on any specific date due to the accepted condition, the Office properly denied payment of disability compensation.

The September 5, 1996 decision of the Office of Workers' Compensation is affirmed.

Dated, Washington, D.C.
December 1, 1999

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member