

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of TERRY D. JOHNSON and DEPARTMENT OF VETERANS AFFAIRS,  
MEDICAL CENTER, Birmingham, Ala.

*Docket No. 98-1998; Submitted on the Record;  
Issued January 25, 1999*

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DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,  
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof in establishing that he developed an emotional condition due to factors of his federal employment.

The Board has duly reviewed the case on appeal and finds that appellant has not met his burden of proof in establishing that he developed an emotional condition due to factors of his federal employment.

Appellant filed a claim for an emotional condition on December 3, 1997. By decision dated June 4, 1998, the Office of Workers' Compensation Programs denied appellant's claim finding that he had not established an injury in the performance of duty.

To establish appellant's occupational disease claim that he has sustained an emotional condition in the performance of duty appellant must submit the following: (1) medical evidence establishing that he has an emotional or psychiatric disorder; (2) factual evidence identifying employment factors or incidents alleged to have caused or contributed to his condition; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to his emotional condition.<sup>1</sup> Rationalized medical opinion evidence is medical evidence which 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. The 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 the claimant.<sup>2</sup>

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<sup>1</sup> *Donna Faye Cardwell*, 41 ECAB 730, 741-42 (1990).

<sup>2</sup> *Id.*

In this case, appellant has failed to submit the necessary medical evidence to establish that he has an emotional condition. The medical evidence of record consists of a report dated February 27, 1997 from Dr. Paul Goepfert, a Board-certified internist, which stated that appellant was able to return to work effective February 27, 1997 and that appellant was able to perform all aspects of his job and had no limitations at that time. Dr. Goepfert did not provide a diagnosis of any current or previous condition. In a note dated April 15, 1998, Dr. Mark K. Middlebrooks, a Board-certified internist, stated that appellant was no longer able to work effective November 14, 1997 “due to his previous medical condition for which he has been disabled from previously.” Dr. Middlebrooks did not provide a diagnosis of an emotional or any other condition. These reports are not sufficient to meet appellant’s burden of proof in establishing a *prima facie* claim that he has an emotional condition.

In notes dated January 1, 1995 and April 15, 1998, Dr. Middlebrooks prescribed medication. Dr. Middlebrooks did not provide a diagnosis and did not sign these notes. Appellant also submitted a rating decision from the employing establishment finding that appellant was diagnosed with panic disorder with agoraphobia. This report was not signed by a physician. The Board has held that notes and reports not signed by a physician have no probative value<sup>3</sup> and are not sufficient to meet appellant’s burden of proof.

As appellant has not submitted the necessary medical evidence to establish that he has an emotional condition, he has failed to meet his burden of proof to establish fact of injury.<sup>4</sup>

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<sup>3</sup> *Merton J. Sills*, 39 ECAB 571 (1988).

<sup>4</sup> The Board notes that following the Office’s June 4, 1998 decision appellant submitted additional new evidence to the Office. As the Office did not consider this evidence in reaching a final decision, the Board may not review it for the first time on appeal. 20 C.F.R. § 501.2(c).

The decision of the Office of Workers' Compensation Programs dated June 4, 1998 is hereby affirmed.

Dated, Washington, D.C.  
January 25, 1999

Michael J. Walsh  
Chairman

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member