

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of YOLANDA ARIAS and DEPARTMENT OF HEALTH & HUMAN SERVICES, SOCIAL SECURITY ADMINISTRATION, San Antonio, TX

*Docket No. 97-1719; Submitted on the Record;
Issued October 12, 1999*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant, a hearing clerk for the employing establishment, has met her burden of proof to establish that she developed an emotional condition causally related to stress in her federal employment.

The Board has given careful consideration to the issue involved, the contentions of appellant and the entire case record. The Board finds that the decision of the hearing representative of the Office of Workers' Compensation Programs dated April 4, 1997, finding that appellant did not sustain an emotional condition causally related to factors of her employment, is in accordance with the facts and the law in this case, and hereby adopts the findings and conclusions of the hearing representative.

The Board notes, however, that in a letter dated January 4, 1996, appellant advised the Office that the diagnosed condition for which she was claiming compensation benefits was fibromyalgia, a physical illness, and that therefore she felt that the Office had mischaracterized her claim as one for an emotional condition. In addition, the record contains uncontradicted supportive medical evidence from appellant's treating physician, Dr. Alex DeJesus, a Board-certified rheumatologist, who concluded that appellant is primarily disabled from work by her severe fibromyalgia, "likely secondary to activities at work" and that appellant's "activities at work exacerbate her pain." The case will therefore be remanded for further development and a determination of whether appellant's fibromyalgia was caused, precipitated, accelerated or aggravated by her employment, thus entitling appellant to compensation benefits.¹

¹ See John Watkins, 47 ECAB 597 (1996).

The decision of the hearing representative of the Office of Worker's Compensation Programs dated April 4, 1997, holding that appellant did not establish that she developed an emotional condition causally related to factors of her federal employment, is hereby affirmed. The case is remanded for a determination of whether appellant's fibromyalgia was caused, precipitated, accelerated or aggravated by her employment.²

Dated, Washington, D.C.

October 12, 1999

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

² If the Office does determine that appellant's fibromyalgia is causally related to her employment, either directly, or by precipitation, acceleration or aggravation, then the Office should further determine whether appellant's diagnosed chronic depression is a consequence of her fibromyalgia; *see Charlet Garrett Smith*, 47 ECAB 562 (1996).