

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of MARY O. KNIGHT and DEPARTMENT OF VETERANS AFFAIRS,  
VETERANS ADMINISTRATION MEDICAL CENTER, Augusta, GA

*Docket No. 98-2368; Submitted on the Record;  
Issued November 2, 2000*

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DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
MICHAEL E. GROOM

The issue is whether appellant sustained an emotional condition while in the performance of her duties.

The Board finds that this case is not in posture for decision. Further development of the medical evidence is warranted.

Workers' compensation law does not cover each and every injury or illness that is somehow related to employment.<sup>1</sup> An employee's emotional reaction to an administrative or personnel matter, for example, is generally not covered. The Board has held, however, that error or abuse by the employing establishment in an administrative or personnel matter, or evidence that the employing establishment acted unreasonably in an administrative or personnel matter, may afford coverage.<sup>2</sup> Perceptions alone are not sufficient to establish entitlement to compensation. To discharge her burden of proof, a claimant must establish a factual basis for her claim by supporting her allegations with probative and reliable evidence.<sup>3</sup>

In its decision of July 20, 1998, the Office of Workers' Compensation Programs made findings on which of the factors implicated by appellant were compensable, which were not compensable and which were not established as having occurred. The Office denied appellant's claim because the weight of the medical evidence indicated that appellant's condition was not caused by the compensable factor of employment that appellant established.

In making its findings of fact, the Office chronologically summarized each of the eight Equal Employment Opportunity (EEO) complaints appellant filed. The Office noted the date of

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<sup>1</sup> *Lillian Cutler*, 28 ECAB 125 (1976).

<sup>2</sup> *Margreate Lublin*, 44 ECAB 945 (1993).

<sup>3</sup> *Ruthie M. Evans*, 41 ECAB 416 (1990).

filing, the docket number assigned, appellant's claim and the specific incidents covered by the complaints. The Office also noted whether the EEO complaints were upheld or not upheld. Following each of these summaries the Office explained the basis for its finding. With one exception the Office noted that no finding of error was made against the employing establishment and that the implicated factors of employment were not considered in the performance of duty.

The Office noted, however, that appellant's first EEO complaint was formally adjudicated and upheld. The Office found as follows: "This is considered to be within the performance of the claimant's duties because an independent investigation found the claimant's allegations to be true. Error was found on the part of the agency."

As noted above, appellant's perceptions of error or abuse are not alone sufficient to establish entitlement to compensation. She must establish a factual basis for her claim by supporting her allegations with probative and reliable evidence. The Office properly found that the factual evidence established only one instance of error or abuse on the part of the employing establishment:

"The claimant filed an EEO complaint that was formally adjudicated as complaint 96-2068. In that complaint, the claimant stated she was reassigned from Nurse Manager III, Step 14, to Staff Nurse III, Step 12 (a downgrade with loss of step increases and pay) on May 10 1996, because of discrimination and an act of reprisal for filing a prior EEO complaint. The EEO complaint was upheld, supporting the claimant's allegations of harassment by her supervisor on May 10, June 3 and 13, and July 7, 1996. Other issues concerned the claimant receiving a satisfactory performance appraisal, while she had received outstanding and highly satisfactory ratings in prior years; proficiency reports were changed partly because of a prior informal EEO agreement and part to 'keep peace'; and she was not provided with formal counseling or warning of tracking of her skills prior to an administrative investigation."

When an employee claims that she sustained an injury in the performance of duty, she must submit sufficient evidence to establish that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. She must also establish that such event, incident or exposure caused an injury.<sup>4</sup>

As appellant has established a compensable factor of employment, the question for determination is whether the accepted event, incident or exposure caused an injury. Causal relationship is a medical issue,<sup>5</sup> and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal

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<sup>4</sup> See generally *John J. Carlone*, 41 ECAB 354 (1989); *Abe E. Scott*, 45 ECAB 164 (1993); see also 5 U.S.C. § 81015 ("injury" defined); 20 C.F.R. §§ 10.5(a)(15)-5(a)(16) ("traumatic injury" and "occupational disease or illness" defined).

<sup>5</sup> *Mary J. Briggs*, 37 ECAB 578 (1986).

relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete factual and medical background of the claimant<sup>6</sup> must be one of reasonable medical certainty<sup>7</sup> and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.<sup>8</sup>

Reports from appellant's attending psychiatrist, Dr. Myrna R. Thompson, establish a diagnosis of major depression. Dr. Knight recommended that appellant be kept away from "the stress of work." She noted appellant's "perception of stress related to conflicts on the job." Dr. Knight noted anxiety and depression related to appellant's return to her job. On December 18, 1995 Dr. Thompson reported that appellant was "stressed out -- from work." She reported that appellant was felt to have a mood disturbance, "which appears to be secondary to ongoing conflicts on her job. The feeling is aggravated by feelings of being trapped in this position without option to move on or rectify the current level of perceived antagonism." On October 9, 1997 Dr. Thompson reported that appellant was capable of returning to work "if work-related stress issues are addressed." She later reported that appellant continued to perceive stress at her work and that she had complaints of job-related distress.

The Board finds that the reports of Dr. Thompson are insufficient to establish the essential element of causal relationship. Her references to "stress" and "conflicts" at work are vague and do not demonstrate an understanding of the one factor of employment that is compensable and established by the evidence.<sup>9</sup> The reports also provide no medical reasoning to explain, from a psychiatric perspective, how the compensable and established factor of employment caused or aggravated appellant's major depression. Medical conclusions based on inaccurate or incomplete histories are of little probative value.<sup>10</sup> Medical conclusions unsupported by rationale are also of little probative value.<sup>11</sup>

The Office referred appellant, together with a statement of accepted facts setting forth the compensable and established factor of employment and referred appellant to Dr. John S. Dirksen, a psychiatrist, for an opinion on whether the compensable and established factor of employment caused or aggravated appellant's psychiatric condition. On May 27, 1998 Dr. Dirksen gave a principal diagnosis of major depression and stated that this was not caused by the compensable factor of employment. He explained that appellant was diagnosed with

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<sup>6</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>7</sup> *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

<sup>8</sup> *See William E. Enright*, 31 ECAB 426, 430 (1980).

<sup>9</sup> *See Kathrine W. Brown*, 10 ECAB 618 (1959) (finding that the actual circumstances upon which the physician predicated his conclusion were not determinable because his report did not contain a recital of those circumstances).

<sup>10</sup> *See James A. Wyrick*, 31 ECAB 1805 (1980) (physician's report was entitled to little probative value because the history was both inaccurate and incomplete). *See generally Melvina Jackson*, 38 ECAB 443, 450 (1987) (addressing factors that bear on the probative value of medical opinions).

<sup>11</sup> *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 968 (1954).

depression in December 1995 and that appellant's EEO complaint was in May 1996. Furthermore, he noted, appellant continued to work until August 1997.

Dr. Dirksen's medical reasoning requires clarification. The diagnosis of depression in December 1995 supports that the instances of discrimination in May, June and July 1996 did not cause or precipitate this psychiatric condition, but this is not sufficient to resolve the issue. The Board has held that when employment factors cause an aggravation of an underlying condition, the employee is entitled to compensation for periods of disability related to the aggravation.<sup>12</sup> Dr. Dirksen did not address whether the specific instances of discrimination in May, June and July 1996, as accepted by the Office, aggravated appellant's depression and, if so, for what period of time. He also did not explain the significance of appellant's working until August 1997.

The Board will set aside the Office's July 20, 1998 decision and remand the case for a supplemental report from Dr. Dirksen clarifying the matters noted above.<sup>13</sup> After such further development of the evidence as may be necessary, the Office shall issue an appropriate final decision on appellant's claim.

The July 20, 1998 decision of the Office of Workers' Compensation Programs is set aside and the case remanded for further action consistent with this opinion.

Dated, Washington, DC  
November 2, 2000

Michael J. Walsh  
Chairman

David S. Gerson  
Member

Michael E. Groom  
Alternate Member

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<sup>12</sup> *Gaeten F. Valenza*, 39 ECAB 1349 (1988); *James L. Hearn*, 29 ECAB 278 (1978).

<sup>13</sup> *See William N. Saathoff*, 8 ECAB 769 (1956) (although the claimant failed to adduce any medical evidence of causal relation, the Board remanded the case for further development where the Office obtained a second opinion that was deficient).