



away luncheons. Appellant also alleged her stress was due to her office being very busy with “people coming in the office all day long with questions, wanting copying done, looking for paperwork” and the constant ringing of the telephones.

In an undated response, Colonel Dennis F. Sanger contended that appellant had not been given any responsibilities, task or placed in a work environment to cause her condition. He stated that other employees in similar circumstances had flourished or moved on to positions with increased responsibility. Colonel Sanger acknowledged that appellant did answer the telephone for himself and the other people in the office because there was one telephone line. He also stated that appellant was not the only person answering the telephones. Regarding his calendar and travel arrangements, Colonel Sanger agreed appellant performed these duties, but contended that she was not the only person who maintained his calendar or made travel arrangements for him. He noted that part of her duties under her August 1998 performance plan was to evaluate procedures and practices and develop improved methods, “using microcomputer equipment where applicable.” He supported appellant’s allegation that she was required to maintain an excel database on employees, but that this was not time consuming or difficult to maintain. Regarding the Livelink computer program, he noted that she was required to learn it, but contended that it reduced her workload significantly. He indicated that appellant was responsible for arranging going away luncheons and retirements, but that it was a team effort and she was not solely responsible. Inprocessing paperwork for new employees was also part of her job duties.

In treatment notes dated June 7, 2001, Dr. John C. Beck, an attending Board-certified psychiatrist, related that appellant indicated that her work office was busy with many interruptions and that she felt less able to keep up with her work as time progressed.

In treatment notes dated March 21, April 2 and May 2, 2001, Dr. Bryan C. Benefiel, an attending Board-certified family practitioner, concluded that appellant was totally disabled due to a stress-related condition and depression. In his March 21, 2001 treatment note, the physician attributed appellant’s disability to “significant occupational stress.”

Appellant responded to Colonel Sager’s reply to her statement in a letter dated June 9, 2001 and noted her disagreement with his characterization of her work duties.

On August 23, 2001 the Office received a copy of appellant’s performance standard, which appellant and Colonel Sager signed on February 2, 2000. The Office also received performance appraisals signed by appellant on January 20, 2000 and January 22, 2001. In her performance appraisals appellant’s duties included managing her supervisor’s calendar and travel arrangements, during decreased office manning times she picked up the increased administrative workload, coordinated a 6 member administrative office staff to ensure tasks were timely completed, screening incoming visitors of 75 to 100 per day, answer 75 to 100 telephone calls per day, she volunteered to coordinated a retirement ceremony, “created comprehensive database to accurately track all nominations” and “expertly used new data base” in her performance appraisal for the period October 1, 1999 to September 30, 2000.

By decision dated November 8, 2001, the Office denied appellant's claim for an emotional condition on the grounds that she had not established a compensable factor of employment.

Appellant requested reconsideration by letter dated June 8, 2002 and submitted a November 12, 2001 report, by Dr. Beck in support of her request. In a November 12, 2001 report, Dr. Beck diagnosed adjustment disorder with mixed emotional features, which he attributed to her employment. Dr. Beck stated: "Absent the adverse influence of Col[onel] Sager on the work efforts of the applicant there would have been no psychiatric injury or work function impairment." In concluding it was mutually agreed between Dr. Beck and appellant that she no longer needed psychiatric treatment effective August 29, 2001.

By decision dated July 31, 2002, the Office denied appellant's request for modification.

### **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 her regular or specially assigned duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation Act.<sup>1</sup> 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 her frustration from not being permitted to work in a particular environment or to hold a particular position.<sup>2</sup>

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition, for which she claims compensation was caused or adversely affected by employment factors.<sup>3</sup> This burden includes the submission of a detailed description of the employment factors or conditions, which appellant believes caused or adversely affected the condition or conditions, for which compensation is claimed.<sup>4</sup>

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors in causing a condition or disability, the Office, 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 providing an opinion on causal relationship and, which working conditions are not deemed factors of employment and may not be considered.<sup>5</sup> If a claimant does implicate a factor of

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Anna C. Leanza*, 48 ECAB 115 (1996); see *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991); *Lillian Cutler*, 28 ECAB 125 (1976).

<sup>3</sup> *Pamela R. Rice*, 38 ECAB 838, 841 (1987).

<sup>4</sup> *Effie O. Morris*, 44 ECAB 470 (1993).

<sup>5</sup> See *Norma L. Blank*, 43 ECAB 384 (1992).

employment, the Office 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, the Office must base its decision on an analysis of the medical evidence.<sup>6</sup>

### ANALYSIS

In the attachment to her Form CA-2, appellant described the difficulties she experienced handling the volume of her work duties. Her duties included answering the telephone for her supervisor and the other three colonels in the office; making her supervisor's travel arrangement and keeping his calendar; maintaining a spreadsheet on employees; being required to come up with new ideas; learning and using Livelink, a new computer system; coordinating arrangements for retirement and going away luncheons; and inprocessing paperwork for the colonels who are leaving all allegedly contributed to appellant's work-related stress. Appellant also stated that the office was very busy with people coming to the office asking questions, looking for paperwork, requesting copying be done and constant ringing of the telephones. Colonel Sager did not dispute the description of appellant's duties. Rather, he noted that appellant was not required to perform them alone and that other employees did not encounter a difficulty in their work. The clear import of appellant's statement was that she was overwhelmed by her various job responsibilities. Moreover, the record supports appellant contentions as to her job duties.

When disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability is deemed compensable.<sup>7</sup> In this instance, appellant alleged that her claimed condition arose as a result of her attempts to meet the demands of her position. Accordingly, the Board finds that appellant has established a compensable employment factor under *Cutler*.

Although Dr. Beck did not provide sufficient medical rationale explaining how appellant's work duties caused or contributed to her diagnosed emotional condition, his report is generally supportive of appellant's claim and sufficient to require further development by the Office.<sup>8</sup>

### CONCLUSION

The Board finds that this case is not in posture for a decision. The case will be remanded to the Office for preparation of a statement of accepted facts and further development of the medical evidence on the issue of whether appellant sustained an emotional condition causally related to the compensable employment factor. After such further development as is deemed necessary, the Office should issue a *de novo* decision.

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<sup>6</sup> *Margaret S. Krzycki*, 43 ECAB 496 (1992); *Norma L. Blank*, *supra* note 5.

<sup>7</sup> *Lillian Cutler*, *supra* note 2.

<sup>8</sup> *See John J. Carlone*, 41 ECAB 354 (1989).

**ORDER**

**IT IS HEREBY ORDERED THAT** decisions of the Office of Workers' Compensation Programs dated July 31, 2002 and November 8, 2001 are set aside and the case remanded for further development consistent with the above opinion.

Issued: March 12, 2004  
Washington, DC

Alec J. Koromilas  
Chairman

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member