



stress. She stopped work on January 28, 2002 and returned on February 11, 2002. Appellant identified March 11, 2002 as the date she first became aware that her condition was employment related. In a separate statement, she indicated that she had a low tolerance for people who did not meet her expectations and that the demands of her position caused her to experience extreme stress as the work hours increased over a six-week period after September 11, 2001. Appellant noted that, during this period, the employing establishment also instituted a new pay system that was part of her duties and that this added to her stress.

Dennis Portlance, a supervisor, indicated that upon returning to work following her stroke, appellant was unable to perform her duties without some type of assistance or close review, that she had anger management issues and that she was experiencing anxiety in response to the creation of a new security organization. Additionally, in an April 15, 2002 statement, Larry Bruno, appellant's second line supervisor, indicated that, after September 11, 2001, the Transportation Security Administration was created, which caused job uncertainty and the work demands to go up dramatically. Further, he indicated that in order to keep up with the administrative officer work overload they had to assign another employee to assist appellant. Additionally, he indicated that most employees worked an additional "20 percent routinely."

Appellant also submitted an undated statement from Danny W. Simpson, a coworker, who indicated that appellant's workload quadrupled and that the workload dramatically increased after September 11, 2001. Additionally, statements from coworkers, Lourie S. Boyd, Brenda L. Rookard and Mr. Simpson, indicated stress from appellant's workload caused her illness.

In a January 29, 2002 report, Dr. Sameer Chaudhry, a Board-certified internist, noted that he treated appellant for left-sided numbness and he reported a prior history of transient ischemic attack (TIA) in 1991.<sup>1</sup> In an April 10, 2002 report, Dr. Steve Buie, a Board-certified family practitioner, indicated that he had treated appellant since 1987. He advised that she suffered "daily debilitating symptoms from diagnoses which include multiple cerebral infarcts, ocular histoplasmosis, recurrent syncope, chronic fatigue and situational depression." Dr. Buie stated that the demands of appellant's job and "stress with interpersonal relationships at work remains high and tend to exacerbate her underlying depression about her medical condition." He indicated that appellant suffered from recurrent syncope during routine activity. Dr. Buie opined that appellant was at maximal medical improvement with further deterioration in status anticipated. He advised that she "pursue full disability from her present position and all occupations to avoid job stress, which exacerbated her underlying medical diagnoses."

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<sup>1</sup> Additionally, the Office received numerous records for treatment of appellant's preexisting conditions dating back to 1991. The records included: a May 11, 1995 magnetic resonance image (MRI) scan of the brain, a June 16, 1995 report read by Dr. Mario K. Yu, a Board-certified neurologist, which diagnosed possible "transient cerebral ischemic attack" with a possibility of multiple sclerosis, treatment for ocular histoplasmosis and an active macular lesion of the right eye in 1996, a sleep apnea study from May 31, 1996, an October 7, 1996 report from Dr. Buie diagnosing chronic fatigue syndrome, reports dated October 31 and November 21, 1996 in which Dr. Arthur A. Allen, II, a Board-certified psychiatrist and neurologist, diagnosed microvascular ischemic process, a February 23, 1998 visual acuity examination, treatment notes from May 1995 to January 1998, a treadmill worksheet from March 17, 1999 for syncope and various diagnostic reports and treatment notes that predated appellant's injury.

By decision dated May 28, 2002, the Office denied appellant's claim. The Office found that she had established as a factor of employment, that a new pay system was begun in her agency. However, the Office found that the medical evidence failed to establish that the claimed condition was causally related to the accepted factor of employment.

On June 27, 2002 appellant requested a hearing which was held on November 19, 2002. Appellant submitted additional evidence, which included a June 3, 2002 report, in which Dr. Buie indicated that she suffered from "multiple [cardiovascular accidents] with chronic fatigue and situational depression." He opined that appellant's job contributed to, but was not the sole cause of her condition. In a report dated December 12, 2002, Dr. Buie advised that her medical condition was "complicated by recurrent multi-infarct [cardiovascular accidents] and consequent chronic fatigue and disability" and that, as a consequence, appellant slept up to "14 hours per day." The physician opined that the prolonged ongoing stress of her position did "aggravate, accelerate and precipitate her medical conditions."

By decision dated April 11, 2003, the Office hearing representative affirmed the May 28, 2002 decision.

Appellant requested reconsideration by letter dated May 19, 2003. She submitted additional evidence which included a May 3, 2003 report from Dr. Buie. The physician repeated his previous diagnoses and opined that specific requirements of appellant's federal employment directly exacerbated her symptoms, including overseeing multiple tracking of detailed financial reports, stress in managing allowances escalated after September 11, 2001, repetitive statement preparations, escalated hiring of special agents on short time frames, quota system oversight with insufficient control, increased demands of training and recruitment.<sup>2</sup> Dr. Buie indicated that these factors contributed to appellant's difficulty with stress and exacerbated her underlying condition of multi-infarct cardiovascular (CVA) accidents, adding to her chronic fatigue difficulty. The physician further explained that appellant's previous medical conditions did not tend to exacerbate "exhaustion" until the aforementioned job demands exacerbated her symptoms.

By decision dated August 19, 2003, the Office denied modification of the prior decision.

The Office received an undated request for reconsideration on October 22, 2003. In support of her request, appellant submitted an October 15, 2003 report from Dr. Buie, who indicated that she suffered from "multi-infarct CVA, ocular histoplasmosis, secondary extreme chronic fatigue from neurologic fibrosis which impairs her concentration, stamina" and "ability to perform work tasks." He noted that appellant had documented episodes of syncope with recurrent vasovagal episodes, which were incompletely responsive to medication trials. Dr. Buie opined that an attempt to work in unrestricted status revealed that job stress exacerbates appellant's concentration and ability to perform tasks at work, which included tracking of detailed financial reports. He indicated that repetitive statement preparations escalated hiring during short time frames, quota systems requiring increased training and recruitment, all contributed to appellant's "intrinsic adrenalin level increase which exacerbates difficulty of

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<sup>2</sup> The report stated September 11, 2002; however, this appears to be a typographical error.

documented neurologic damage.” The physician indicated that no lab test was available to corroborate the clinical trials and opined that prior to the job requirement change appellant did not exhibit the same symptom deterioration. Dr. Buie opined that there was a causal relationship and stated that appellant’s CVA was not caused by her stress, but that her “resultant symptomatology has worsened as consequence to her job requirements with her underlying neurological impairment.” He further added that her condition would worsen and “would exacerbate on a permanent basis if [appellant] continued to work in the same stress environment.”

By decision dated December 9, 2003, the Office denied appellant’s request for reconsideration.

### **LEGAL PRECEDENT**

A claimant seeking benefits under the Federal Employees’ Compensation Act<sup>3</sup> has the burden of establishing the essential elements of her claim by the weight of the reliable, probative and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability for work for which she claims compensation is causally related to the employment injury.<sup>4</sup>

To establish that an injury was sustained in the performance of duty, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.<sup>5</sup> Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.<sup>6</sup>

### **ANALYSIS**

In denying appellant’s claim, the Office accepted that a new pay system was begun in her agency and that this was a compensable employment factor. In support of her claim, appellant has also alleged that her work demands increased dramatically after September 11, 2001, which was about the same time the new pay system was started. She included statements from her supervisors, Mr. Portlance and Mr. Bruno and several coworkers supporting that, after

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<sup>3</sup> 5 U.S.C. § 8101 *et seq.*

<sup>4</sup> *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

<sup>5</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>6</sup> *See Robert G. Morris*, 48 ECAB 238 (1996). A physician’s opinion on the issue of whether there is a causal relationship between the claimant’s diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant. *Victor J. Woodhams*, *supra* note 5. Additionally, in order to be considered rationalized the opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and claimant’s specific employment factors. *Id.*

September 11, 2001, her workload increased dramatically. The Board, therefore, finds that evidence indicates that appellant's work duties and responsibilities as a program analyst increased during this time and this would be a compensable factor.<sup>7</sup>

The Office also found that the medical evidence failed to establish that the claimed condition was causally related to the accepted factor of employment. However, appellant's attending physician, Dr. Buie, submitted several reports which supported that her CVA condition was causally related to her employment. In his April 10 and December 12, 2002 reports, Dr. Buie indicated the demands of appellant's job exacerbated her condition. In his May 3, 2003 report, he indicated that the demands of appellant's position escalated after September 11, 2001 and exacerbated her medical condition. Further, in his report dated October 15, 2003, Dr. Buie noted the changes that occurred after September 11, 2001 and the increased demands made upon appellant, such as tracking of detailed financial reports and opined that these stressors contributed to her medical condition. While none of these reports were completely rationalized, they were consistent in indicating that appellant sustained an employment-related CVA condition.

Proceedings under the Act are not adversarial in nature, nor is the Office a disinterested arbiter. While the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence to see that justice is done.<sup>8</sup> While Dr. Buie's reports do not contain sufficient rationale to discharge appellant's burden of proving by the weight of the reliable, substantial and probative evidence that her January 28, 2002 stroke was caused by factors of her employment, the Board finds that these reports raise an inference of causal relationship sufficient to require further development of the case record by the Office.<sup>9</sup>

On remand the Office should refer appellant, the case record and a statement of accepted facts to an appropriate specialist for an evaluation and a rationalized medical opinion regarding the cause of appellant's January 28, 2002 stroke. After such further development of the case record as the Office deems necessary, a *de novo* decision shall be issued.

### CONCLUSION

The Board finds that this case is not in posture for decision on the issue of whether appellant established that she sustained an injury in the performance of duty.<sup>10</sup>

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<sup>7</sup> See *Penelope C. Owens*, 54 ECAB \_\_\_\_ (Docket No. 03-1078, issued July 7, 2003) (where a claimed disability results from an employee's emotional reaction to the performance of his or her regular or specially assigned duties or to an imposed employment requirement, the disability comes within the coverage of the Act).

<sup>8</sup> *William J. Cantrell*, 34 ECAB 1223 (1983).

<sup>9</sup> See *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978).

<sup>10</sup> The Board's disposition of the first issue renders the second issue moot.

**ORDER**

**IT IS HEREBY ORDERED THAT** the December 9 and August 19, 2003 decisions of the Office of Workers' Compensation Programs are set aside and the case is remanded for further action consistent with this decision of the Board.

Issued: September 7, 2004  
Washington, DC

Alec J. Koromilas  
Chairman

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member