United States Department of Labor
Employees' Compensation Appeals Board

STACEY L. WESTLEY, Appellant	)	
and	)	**Docket No. 06-415**
	)	**Issued: June 2, 2006**
DEPARTMENT OF JUSTICE, FEDERAL CORRECTIONAL INSTITUTION, San Pedro, CA, Employer	)	

Appearances:
Stacey L. Westley, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On December 12, 2005 appellant filed a timely appeal from the September 12, 2005 merit decision of the Office of Workers' Compensation Programs which denied her claim that she sustained an injury in the performance of duty. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the merits of appellant's claim.

ISSUE

The issue is whether appellant sustained an injury in the performance of duty.

FACTUAL HISTORY

On January 31, 2005 appellant, then a 36-year-old inmate systems officer, filed a claim alleging that her work stress, hypertension, depression and headaches, which she first noticed on September 17, 2004 were a result of her federal employment. She stated:

> "During this time the institution's custody level was changed. The workload was to the extreme. No additional help. Working 13 and 14[-]hour days. Never had

high blood pressure or suffered from depression. See attached workup. Referred to work stress program."

In a supporting narrative statement, appellant explained that her work area, receiving and discharge (R&D), had only three people on staff to process new inmates, who arrived twice a week in busloads of up to 40. On Wednesdays she stated that her area had only two officers to do the work. In addition to processing these new inmates, appellant's area was responsible beginning late July or early August 2004 for shipping out 40 inmates to another institution every week. She stated that she worked 13- and 14-hour days "every other day it seems like." Appellant explained that processing a large bus of new inmates was an all-day job, "but mind you we still had to pack the property of the 40 inmates going out." [She] stated: "Not only did I have to do the above I had to process releases to the street, releases to other agencies, inmates being picked up for court." Appellant stated that her area was not suited to accommodate so many inmates.

Appellant's supervisor took issue with some of the details appellant described but confirmed that 200 inmates were transferred to another institution from August 5 to September 2, 2004. She worked a compressed schedule of 10-hour days with every Friday off. New inmates arrived twice a week and one of the three officers doing this had Wednesdays off. The supervisor itemized the actual weekly bus moves from August 5 to September 6, 2004, noting that appellant took leave from September 7 to November 8, 2004. Appellant later provided her own itemization.

A safety manager noted that appellant's normal duty hours were 10 hours a day but that the time she worked could amount to 13 or 14 hours with overtime or compensatory time. She was never told it was mandatory for her to stay after her normal 10-hour shift. Appellant has always elected to work the overtime or compensatory time.

On April 25, 2005 M. Sigur, appellant's immediate supervisor during the period in question, offered the following statement:

"[Appellant] was assigned to R&D area during the change of institution custody level beginning August 2005 [sic] in which I am [her] immediate [s]upervisor.…

"During the movement beginning August 2005, [sic] R&D staff was required to stay the duration of processing incoming/outgoing inmate bus trips. The only option [the] staff had was to work for compensatory leave or [be] paid overtime, which meant staying past your scheduled shift."

Two coworkers confirmed that during the custody level changes the staff did not have the option to leave when their shifts were over.

On November 2, 2004 Dr. Stephen B. Seager, a psychiatrist, completed an attending physician's form report. Noting a history of job-related stress since August 2004, he diagnosed adjustment disorder with anxiety and depression. Asked whether this condition was caused or aggravated by an employment activity, he wrote "undetermined."

On December 1, 2004 Dr. Vanessa Gavin-Headen, appellant's attending family practitioner, completed the same form. She diagnosed job stress, hypertension and tension headaches. With an affirmative mark she indicated that the conditions found were caused or aggravated by employment activity stating: "The stress at the job was driving the blood pressure up. When appellant was away from the environment it was improved."

In a decision dated September 12, 2005, the Office denied appellant's claim for compensation benefits. The Office found that she had established no compensable factors of employment. The Office found that appellant did not establish that she was required to perform an excessive amount of work in transferring inmates or that her overtime work was mandatory or that it constituted abusive treatment from her employer. The Office also found that she had not provided sufficient medical evidence to establish that she sustained work-related physical impairments due to alleged factors of her employment.

LEGAL PRECEDENT

The Federal Employees' Compensation Act provides for payment of compensation for disability or death of an employee resulting from personal injury sustained while in the performance of duty.[1] When an employee experiences emotional stress in carrying out his or her employment duties or has fear and anxiety regarding her ability to carry out his or her duties and the medical evidence establishes that the disability resulted from his or her emotional reaction to such situation, the disability is generally regarded as due to an injury arising out of and in the course of employment. This is true when the employee's disability resulted from an emotional reaction to a special assignment or requirement imposed by the employing establishment or by the nature of their work.[2]

An employee seeking benefits under the Act has the burden of proof to establish the essential elements of his or her claim. 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.[3]

Causal relationship is a medical issue[4] 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 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

[1] 5 U.S.C. § 8102(a).

[2] *Lillian Cutler*, 28 ECAB 125 (1976).

[3] *See generally John J. Carlone*, 41 ECAB 354 (1989); *Abe E. Scott*, 45 ECAB 164 (1993); *see also* 5 U.S.C. § 8101(5) ("injury" defined); 20 C.F.R. § 10.5(a)(15)-.5(a)(16) ("traumatic injury" and "occupational disease or illness" defined).

[4] *Mary J. Briggs*, 37 ECAB 578 (1986).

factual and medical background of the claimant,[5] must be one of reasonable medical certainty[6] 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.[7]

ANALYSIS

Appellant attributes her stress, hypertension, depression and headaches to the duties she performed from August to September 2004, during which time there was a change of custody level. Although there is some disagreement over the details, such as the exact number of incoming and outgoing inmates on any particular day, the basic facts are not in dispute. In addition to performing her usual duties, appellant's area began processing an additional 40 inmates per week for transfer to another institution. This occurred between early August and early September 2004. During this movement, appellant's immediate supervisor confirmed, the R&D staff was required to stay the duration while processing incoming and outgoing inmate bus trips, which meant staying past schedule shifts. Their only option was to work for compensatory leave or paid overtime.

The Board finds that appellant has established a compensable factor of employment. Her emotional reaction to her assignment or to her job requirements is a compensable factor under *Cutler*. It is not fatal to appellant's claim that she described her workload as extreme or that her overtime did not constitute abusive treatment by management. Her regular duties and the additional duties she performed during the change of custody level, are sufficiently established by the factual evidence. Appellant has met her burden of proof to establish that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged.

The question for determination is whether appellant's duties during this period caused or aggravated an injury. The medical evidence of record is insufficient to establish her claim. Appellant's psychiatrist, Dr. Seager, diagnosed adjustment disorder with anxiety and depression but reported that it was "undetermined" whether these conditions were caused or aggravated by an employment activity. Dr. Seager's opinion, therefore, is speculative and provides no support for her claim that appellant's duties caused or aggravated an emotional injury.

Dr. Gavin-Headen, appellant's family practitioner, diagnosed job stress, hypertension and tension headaches and indicated with an affirmative mark that the conditions found were caused or aggravated by employment activity. She commented that some unspecified "stress at the job" was driving appellant's blood pressure up and when she was away from the environment, it was improved. But Dr. Gavin-Headen did not report an understanding of appellant's job. She did not describe her regular duties or the additional duties appellant performed during the change of custody level that took place from early August to early September 2004. Medical conclusions

[5] *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

[6] *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

[7] *See William E. Enright*, 31 ECAB 426, 430 (1980).

based on inaccurate or incomplete histories are of little probative or evidentiary value.[8] Because Dr. Gavin-Headen did not describe the duties that appellant implicated, her opinion is based on a proper history.[9]

Dr. Gavin-Headen pointed to a temporal relationship between stress at the job and appellant's blood pressure, but she did not explain whether she observed this from contemporaneous blood pressure readings or whether she was simply relating what appellant had told her. Her December 1, 2004 form report is generally supportive of appellant's claim, but it is well established that a medical report which addressed causal relationship by a check mark is of little probative value.[10]

The Board finds that appellant has not met her burden of proof to establish that her duties during the change of custody level caused an emotional or physical injury.

CONCLUSION

Appellant has not met her burden of proof to establish that she sustained an injury in the performance of duty. The record establishes a compensable factor of employment, but the medical opinion evidence is of diminished probative value and fails to establish causal relationship. The Board will modify the Office's September 12, 2005 decision to find that appellant has established a compensable factor of employment and will affirm the denial of compensation benefits on the grounds that the medical opinion evidence is insufficient to establish that appellant's duties during the change of custody level caused or aggravated her diagnosed medical conditions.

[8] *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).

[9] In *Kathrine W. Brown*, 10 ECAB 619 (1959), the Board found that a physician's opinion that "job insecurity" could have been the cause of the claimant's ulcer was insufficient to establish causal relationship, in part because the physician couched his opinion in equivocal language, but also because the factual circumstances upon which the physician predicated his conclusion could not be determined, as he did not recite those circumstances in his report.

[10] *See Calvin E. King*, 51 ECAB 394 (2000).

ORDER

IT IS HEREBY ORDERED THAT the September 12, 2005 decision of the Office of Workers' Compensation Programs is affirmed as modified.

Issued: June 2, 2006
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board