



through the priority placement program (PPP) after his prior position was eliminated through a reduction-in-force. He stated that he did not challenge the match as the terminology used in the position description seemed congruent with his previous experience. Appellant noted, however, that the new position was a headquarters position and Air Force position for which he had no prior experience. He stated that he reported to his new position on October 7, 2005 and, after a matter of days, realized the matching of terminology related to his previous experience was different from the actual function of the job. Appellant felt he was not qualified for the job and experienced stress beyond the normal stress expected when beginning a new job. On October 18, 2005 he met with Christine K. Burnett, his supervisor, and stated that she felt he was not qualified for the position. Appellant indicated that Ms. Burnett thought it would take at least a year and a half to learn the position, as he came from the field with no previous headquarters experience and no Air Force experience. He felt extreme pressure from not being qualified to perform the duties of the job and stopped work on January 10, 2006.

Appellant submitted work status reports from Schertz Medical Center dated January 11 to March 28, 2006. In a February 16, 2006 letter, Craig Price, physician's assistant, indicated that appellant had major depression and had been placed in a position for which he felt unqualified. In a March 28, 2006 report, Dr. Jolene Berg, a Board-certified family practitioner, indicated that appellant would require a new position that was not in the same office as his current position.

In a June 14, 2006 statement, Ms. Burnett confirmed that she had questioned the lack of consultation prior to the determination of the PPP match for appellant's position. She anticipated 12 to 18 months as the expected learning and adjustment period for appellant and was prepared for and expected to spend considerable time conducting on-the-job training and mentoring during that period. Ms. Burnett indicated that appellant had 11 weeks on the job before going out on sick leave. Appellant was still in training at the time his extended sick leave began. Ms. Burnett indicated that they were in the office at the same time for a total of about six weeks and that she had a relatively brief time to supervise him. During that time, she observed appellant's work to be minimally acceptable and marginally effective. Ms. Burnett found some of his work behaviors at an unacceptable level to accomplish the duties of the position to which he was assigned. She stated:

“Organization and writing skill were below par. Even after providing him writing samples and correcting and reviewing his drafts with him, [appellant] was not able to develop a written product that did not require revising. In some cases, staff packages and emails had to undergo major rewriting before they could be sent forward to more senior managers or to our customers.

“Work behaviors of timeliness, accountability and situational awareness were not at an acceptable level during the six weeks I observed him. [Appellant] did n[o]t appear to understand that deadlines and suspense dates pertained to finished products and not just to him completing his efforts to work on them. He routinely waited until the end of his duty day to send packages forward to me and after my review, if I [ha]d call him to discuss needed revisions, his supervisees would tell me that he [ha]d left for the day. At that point, either they or I would have to stay beyond our own duty hours to complete the work and meet suspenses.

“[Appellant] did not seem to understand, or at least failed to comport with the standard and accepted practices concerning time and attendance....”

In a May 15, 2006 letter, the Office asked appellant to further address the employment-related conditions or incidents he believed contributed to his condition and to provide a comprehensive medical report containing a diagnosis and an opinion, with medical reasons, explaining how employment conditions contributed to the diagnosed condition.

In an undated statement, appellant stated that he felt unusually stressed within the first week of reporting to his new position and realized that he was assigned to a position for which he was not qualified. He met with the personnel department to discuss the fact that an error had occurred in his placement and that he was feeling extreme pressure. Appellant alleged that it was obvious to his supervisor and staff that he was not qualified for the position and that this caused his stress and medical problems. He alleged that in November 2005 both he and his staff were aware of his physical symptoms. Appellant forwarded a statement to the personnel department that outlined why he was not qualified to perform the duties of family matters program manager. He felt depressed and had dangerously high blood pressure.

In a June 1, 2006 letter, Richard N. Mack, a marriage and family therapist, noted counseling appellant from January 9 to April 1, 2006. He stated that appellant felt overwhelmed in his job and this caused him to become depressed and anxious. On April 13, 2006 Mr. Mack opined that job placement in another more suitable position would alleviate enough stress so that appellant could become fully functional.

In a June 12, 2006 report, Dr. Berg indicated that appellant first saw his physician's assistant on January 11, 2006 and that she first saw him on March 14, 2006. She indicated that at every office visit he complained of extreme stress of his job. Appellant's blood pressure, which had previously been controlled became elevated, and he developed an urticarial rash and anxiety related to stress. Dr. Berg noted that, despite medication, appellant's blood pressure did not return to normal until his job situation improved and he returned to a position that was consistent with his training and skills. She stated that the rash on his chest had improved once he was back to work in a less stressful position. Dr. Berg opined that appellant's illnesses, including uticaria, uncontrolled hypertension, and anxiety with depression were directly related to the stress levels at work.

By decision dated January 31, 2007, the Office denied appellant's claim, finding that he had failed to establish a compensable factor of employment.

On February 6, 2007 appellant requested an oral hearing. By decision dated February 26, 2007, a hearing representative remanded the case for additional development noting that the Office did not sufficiently address factors alleged by appellant or seek comments from the employing establishment. Thereafter appellant and the employing establishment provided additional statements requested by the Office. In an April 16, 2007 statement, Ms. Burnett indicated that she felt that appellant would have a steep learning curve in his job as he had no prior relevant experience. She advised that appellant started a different job on May 15, 2006 and that she no longer supervised him.

By decision dated September 27, 2007, the Office denied appellant's claim finding that appellant failed to establish a compensable employment factor.

Appellant requested an oral hearing, which was held on May 24, 2008. At the hearing, he indicated that his period of employment stress was from October 15, 2005 through January 11, 2006. Appellant realized within three days of his arrival that he was not qualified to do the job as he lacked the background for the position requirements and that he had never worked for the Air Force or at headquarters before. He indicated that his work was constantly being returned by his supervisor and he was repeatedly admonished about his work. Appellant was initially told he was not qualified for the job. He alleged that every day he was corrected on approximately two or three things he did, such as doing point papers and answering questions from the field, and was told they were not acceptable.

By decision dated August 8, 2008, the Office hearing representative modified the September 27, 2007 decision to reflect that appellant established that he lacked the necessary experience to provide final direction on questions regarding programs related to family matters with regard to transition and relocation, and lacked the required organizational and writing skills expected of him pertaining to such matters. The Office hearing representative accepted that appellant's work was frequently returned to him and that he was frequently admonished regarding his work product. The hearing found that these experiences were incurred by appellant in the performance of duty. The hearing representative, however, affirmed the denial of appellant's claim as the medical evidence did not establish that his emotional condition was caused by the accepted work factors.

### **LEGAL PRECEDENT**

To establish a claim that an emotional condition arose in the performance of duty, a claimant must submit the following: (1) medical evidence establishing that she has an emotional or psychiatric disorder; (2) factual evidence identifying employment factors or incidents alleged to have caused or contributed to the condition; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to the emotional condition.<sup>1</sup>

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 illness has some connection with employment but nevertheless does not come within the concept or coverage of workers' compensation. Where the medical evidence establishes that the disability results from an employee's emotional reaction to his regular or specially assigned employment duties or to a requirement imposed by the employing establishment, the disability comes within coverage of the Federal Employees' Compensation Act. The same result is reached when the emotional disability resulted from the employee's emotional reaction to the nature of his work or her fear and anxiety regarding her ability to carry out her work duties.<sup>2</sup> By contrast, there are disabilities having some kind of causal connection with the employment that are not covered

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<sup>1</sup> *D.L.*, 58 ECAB \_\_\_\_ (Docket No. 06-2018, issued December 12, 2006).

<sup>2</sup> *Ronald J. Jablanski*, 56 ECAB 616 (2005); *Lillian Cutler*, 28 ECAB 125, 129 (1976).

under workers' compensation law because they are not found to have arisen out of employment, such as when disability results from an employee's fear of reduction-in-force or frustration from not being permitted to work in a particular environment or hold a particular position.<sup>3</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. If a claimant does implicate a factor of 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>4</sup>

A claimant has the burden of establishing by the weight of the reliable, probative and substantial evidence that an emotional condition was caused or adversely affected by his employment.<sup>5</sup> Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish a causal relationship.<sup>6</sup>

### ANALYSIS

Appellant alleged that his emotional condition during the period October 15, 2005 through January 11, 2006 were related to his assignment to a position for which he was not qualified. Based on a reduction-in-force, he was transferred to a position to perform the duties of family matters program manager. He came from the field with no previous headquarters experience and no Air Force experience. Appellant noted that his work was frequently returned to him and he was admonished regarding his work product. The Office accepted that he lacked the knowledge, experience and skills expected of him by his employer and that these experiences were in the performance of duty. The evidence establishes that appellant attributed his emotional condition to an inability to perform the regular duties of his position.<sup>7</sup> On June 14, 2006 Ms. Burnett stated that the work behaviors she observed were not at an acceptable level to accomplish the duties assigned. In the six weeks she observed him, appellant demonstrated organizational and writing skills that were below par and he was not able to consistently develop written products that did not require revising. This supports appellant's consistent assertions that

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<sup>3</sup> *Id.*

<sup>4</sup> *A.K.*, 58 ECAB \_\_\_\_ (Docket No. 06-626, issued October 17, 2006); *C.S.*, 58 ECAB \_\_\_\_ (Docket No. 06-1583, issued November 6, 2006); *T.G.*, 58 ECAB \_\_\_\_ (Docket No. 06-1411, issued November 28, 2006); *D.L.*, *supra* note 1.

<sup>5</sup> *See Charles D. Edwards*, 55 ECAB 258 (2004).

<sup>6</sup> *See Ronald K. Jablanski*, *supra* note 2.

<sup>7</sup> *See supra* note 2.

he experienced stress from being unable or unqualified to perform the duties of his job. Under *Cutler*,<sup>8</sup> appellant has established compensable work factors in this regard. This is not enough, however, to entitle him to benefits. Appellant must further establish a causal connection between these compensable factors of employment and his diagnosed medical conditions. He must establish that he sustained an injury arising out of the employment.<sup>9</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes 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. The opinion of the physician must be based on a complete factual and medical background, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific compensable employment factors identified by the claimant.<sup>10</sup>

The medical evidence is insufficient to establish that appellant sustained an emotional condition causally related to his federal employment. The medical evidence indicates that appellant had been evaluated and treated for an emotional condition. The majority of the medical evidence, however, does not discuss appellant's specific work tasks or projects which the Office accepted as compensable work factors or explain how the compensable work factors contributed to an emotional condition.

Appellant submitted April 13 and June 1, 2006 letters from Mr. Mack, a marriage and family therapist. While section 8101(2) of the Act<sup>11</sup> provides that the term "physician" includes clinical psychologists, there is no evidence in the record establishing that Mr. Mack is a clinical psychologist. A mental health therapist is not considered a physician for the purposes of the Act.<sup>12</sup> As Mr. Mack is not a physician his reports do not constitute medical evidence and are not sufficient to establish the medical aspect of appellant's emotional condition claim.<sup>13</sup>

In her June 12, 2006 report, Dr. Berg indicated that appellant complained of extreme stress related to his job and his blood pressure, which had previously been controlled, became elevated. He also developed an urticarial rash and anxiety related to the level of stress. She indicated that appellant's blood pressure and the rash on his chest improved once he returned to a position that was consistent with his training and skills. Dr. Berg opined that appellant's illnesses, including tiara, uncontrolled hypertension, and anxiety with depression were directly related to the stress levels experienced on the job. While she opined that appellant's conditions were related to his job, she did not provide a complete and accurate factual background as little

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<sup>8</sup> *Lillian Cutler*, *supra* note 2.

<sup>9</sup> *Beverly R. Jones*, 55 ECAB 411 (2004).

<sup>10</sup> *Gary J. Watling*, 52 ECAB 278 (2001); *Donna Faye Cardwell*, 41 ECAB 730 (1990).

<sup>11</sup> 5 U.S.C. § 8101(2).

<sup>12</sup> *Bradford L. Sutherland*, 33 ECAB 1568 (1982).

<sup>13</sup> *Arnold A. Alley*, 44 ECAB 912, 921 (1993).

to no history is recorded in her reports. A physician's opinion must be based on a complete and accurate factual and medical background and must be supported by medical rationale.<sup>14</sup> Dr. Berg did not specifically explain how appellant's frustration from not being able to perform his job functions caused or aggravated any of his diagnosed conditions. Her report is not sufficient to establish that appellant sustained an emotional or physical condition causally related to a compensable work factor.

The remainder of the medical records, including the work status reports from Schertz Medical Center and Dr. Berg's March 28, 2006 report, are insufficient to establish appellant's claim as they do not offer any opinion regarding the cause of appellant's condition. Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.<sup>15</sup> The February 16, 2006 letter from Craig Price, a physician's assistant, is also insufficient to establish appellant's claim. Reports from a physician's assistant are not considered medical evidence as a physician's assistant is not considered a physician under the Act.<sup>16</sup>

There is insufficient rationalized medical evidence of record, based on a complete and accurate factual background, explaining how appellant's diagnosed conditions were caused or aggravated by the accepted employment factors. Therefore, the Office properly denied appellant's emotional condition claim.

### **CONCLUSION**

The Board finds that appellant has failed to establish that his emotional and physical conditions were causally related to a compensable factor of employment.

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<sup>14</sup> *Roger Dingess*, 47 ECAB 123 (1995).

<sup>15</sup> *Michael E. Smith*, 50 ECAB 313 (1999).

<sup>16</sup> *Ricky S. Storms*, 52 ECAB 349 (2001).

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 8, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 15, 2009  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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