

employment. On the claim form appellant stated that over the prior eight years he had been exposed to medical reports and after reviewing these documents he would get anxious.

In a letter dated June 16, 2009, an employing establishment supervisor stated that, from October 2004 to July 2006, appellant worked in the Initial Adjudication Unit and handled the adjudication of all types of claims, including stress claims. According to the supervisor, as of October 2008, appellant did not review stress claims. The supervisor stated that he had been placed on a performance improvement plan (PIP) in July 2004 and was told in March 2009 he would again be placed on a PIP. The supervisor opined that appellant filed the claim because of his impending PIP.

By decision dated July 31, 2009, the Office denied the claim for compensation. It found that the file did not contain a detailed factual statement or probative medical evidence.

Appellant requested reconsideration of his claim by letter dated September 23, 2009. In an undated statement, he reported a February 1987 incident while in the military, where he saw an individual badly hurt while offloading equipment into boats. Appellant stated he was diagnosed with PTSD. He indicated that he began work at the employing establishment in 2001, and his job required him to review medical reports from all types of injuries, including death. According to appellant, after reading some reports of traumatic injuries and surgeries, he would become anxious, have panic attacks and difficulty sleeping. He alleged that his job duties aggravated his PTSD.

With respect to medical evidence, on September 28, 2009 appellant submitted reports from Dr. Marnie Burkman, a Veterans Administration psychiatrist, commencing January 11, 2008. He also submitted a January 20, 2009 report from Dr. Nancy Franzoso, a Veterans Administration psychiatrist. In a report dated October 22, 2009, Dr. Randolph Pock, a psychiatrist, discussed appellant's medical treatment and stated that exposure to accounts of trauma at work exacerbated his sleep problems, caused nightmares and feelings of "anxiety/pain/depression." In a report dated December 2, 2009, Dr. James Allen, Board-certified in occupational medicine, stated that appellant had seen a traumatic event and was reliving these events, and his review of reports related to surgeries and trauma served as a trigger for his symptoms. He stated that appellant could not read reports related to severe or traumatic injuries.

By decision dated December 22, 2009, the Office reviewed the case on its merits. It found the factual evidence was insufficient, as appellant had made a "generalized and widely encompassing description" of his work, and had provided "no details of instances in which he experienced the claimed symptoms, nor any witness statements or other evidence to establish a factual basis."

On January 20, 2009 appellant requested reconsideration of his claim. In a January 20, 2010 statement, he discussed specific cases he had worked on and his emotional and physical reaction. Appellant also submitted a January 29, 2010 report from Dr. Pock and an April 27, 2010 report from Dr. Allen. In a letter dated February 17, 2010, the employing establishment's supervisor stated that he could not confirm or deny appellant's statements, noting that claim numbers were not provided.

In a decision dated July 1, 2010, the Office reviewed the case on its merits and denied modification. It stated that there was no “evidence you were actually at the scene of the incident and had first hand exposure to elements sufficient to support your allegations the review or contacted *sic* affected your preexisting PTSD. Your statements were only generalized and widely encompassing description and your employing establishment could not support your description of the cases you highlighted in your statement.”

LEGAL PRECEDENT

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which he claims compensation was caused or adversely affected by factors of his federal employment.² This burden includes the submission of detailed description of the employment factors or conditions which appellant believes caused or adversely affected the condition or conditions for which compensation is claimed.³

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 the employment but nevertheless does not come within the coverage of workers’ compensation. These injuries occur in the course of the employment and have some kind of causal connection with it but nevertheless are not covered because they are found not to have arisen out of the employment. Disability is not covered where it results from an employee’s frustration over not being permitted to work in a particular environment or to hold a particular position, or secure a promotion. On the other hand, where disability results from an employee’s emotional reaction to his regular or specially assigned work duties or to a requirement imposed by the employment, the disability comes within the coverage of the Act.⁴

ANALYSIS

The Office did not accept that appellant alleged and substantiated a compensable work factor. Appellant’s claim, however, is that his regularly assigned job duties as a claims examiner contributed to an emotional condition. He specifically identified the review of medical reports, such as those involving severe traumatic injuries. The employing establishment confirmed that appellant reviewed medical reports as part of the job duties for the positions he held since 2001.

While the Office finds that his statements are generalized, appellant identified specific job duties in his federal employment. Moreover, he discussed some specific examples of the types of cases that he alleged contributed to his condition. It is not clear why the Office referred to a lack of evidence regarding appellant being “actually at the scene of the incident” or “first hand exposure.” Appellant’s claim is that review of medical reports in his federal employment aggravated a preexisting PTSD. He is not required to show that he was present at the incidents involved in the medical reports he was reviewing. A claimant is required to identify and

² *Pamela R. Rice*, 38 ECAB 838 (1987).

³ *Roger Williams*, 52 ECAB 468 (2001); *Anna C. Leanza*, 48 ECAB 115 (1996).

⁴ *Lillian Cutler*, 28 ECAB 125 (1976).

describe the incidents at work he believed contributed to an emotional condition.⁵ And in this case, appellant provided a detailed description of employment incidents. The Board finds that he has identified regularly assigned job duties with respect to his claim. It is well established that an emotional condition causally related to regularly assigned duties is compensable under the Act.⁶

In addition, the Board notes that the Office referred to appellant's statements "regarding your review of a variety of cases without any case number." The Office stated that without the case numbers, the employing establishment could not confirm or deny the cases and had no personal knowledge of any of the cases. The disclosure of information regarding specific cases with case numbers raises Privacy Act issues.⁷ Appellant is not required to disclose potentially protected information with respect to specific cases. He provided a detailed description of the types of cases and the nature of the medical reports reviewed.

The Board finds that appellant has established compensable work factors in this case. The case will accordingly be remanded to the Office for proper consideration of the medical evidence on the issue of whether appellant has established a diagnosed condition causally related to the identified compensable work factors.⁸ After such further development as the Office deems necessary, it should issue an appropriate decision.

CONCLUSION

The Board finds that the evidence establishes a compensable work factor. The case is remanded for a proper review of the medical evidence on the issue presented.

⁵ *Supra* note 3.

⁶ *See Jeral R. Gray*, 57 ECAB 611, 616 (2008).

⁷ *See* Federal (FECA) Procedure Manual, Part 1 -- Administration, *Privacy Act*, Chapter 1.400.3 (September 2007), noting that disclosure of file information is generally prohibited without consent of the claimant.

⁸ *Jeral R. Gray*, *supra* note 6.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated July 1, 2010 is set aside. The case is remanded for further action consistent with this decision of the Board.

Issued: June 7, 2011
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board