

**United States Department of Labor  
Employees' Compensation Appeals Board**

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C.B., Appellant

and

DEPARTMENT OF THE ARMY, MEDICAL  
COMMAND, Fort Bragg, NC, Employer

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**Docket No. 10-824  
Issued: March 16, 2011**

*Appearances:*  
*Martin Kaplan, Esq.*, for the appellant  
*Office of Solicitor*, for the Director

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Judge  
COLLEEN DUFFY KIKO, Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On February 1, 2010 appellant filed a timely appeal from the December 9, 2009 decision of the Office of Workers' Compensation Programs denying her emotional condition claim. Pursuant to the Federal Employees' Compensation Act<sup>1</sup> and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant met her burden of proof to establish that she sustained an emotional condition in the performance of duty.

**FACTUAL HISTORY**

This case has previously been before the Board. On September 3, 2008 the Board issued a decision setting aside the September 14, 2007 Office decision denying appellant's emotional

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

condition claim and remanded the case to the Office for further development.<sup>2</sup> The Board found that the Office had properly accepted an employment factor with respect to a May 12, 2002 memorandum written by Patricia Qualls, a coworker of appellant, which was addressed to Sergeant Askew, a supervisor of appellant.<sup>3</sup> The Board also accepted employment factors which had not previously been accepted by the Office. It accepted that between Spring and Autumn 2000, after a March 2000 move to another workplace, appellant had to work overtime, including evenings and weekends, to keep up with her work assignments. The Dictaphone system often shut down during this period and caused a backlog of work. The Board did not accept any other employment factors. Because the Office had not evaluated the medical evidence with regard to the additional accepted employment factors, the Board remanded the case to the Office for this purpose. The Board directed the Office to carry out such development as it deemed necessary and to issue an appropriate decision on the matter. The facts and circumstances of the case are incorporated herein by reference.

After the Board's decision, the Office created a statement of accepted facts dated September 8, 2008. It listed incidents which occurred in the performance of duty:

“In May 2002, [Ms.] Qualls wrote a report about [appellant] and submitted it to her supervisor. The report suggested that [appellant] is emotionally unstable.

“[Appellant] alleged that, because of the hospital move in March 2000, there were trainings involved with it and a heavy backlog in transcription. [She] stated that the department was working around the clock, which included weekends to keep things caught up. During this move, [appellant] stated that the Dictaphone and CHCS [Composite Health Care System] systems were constantly backed up and shutting down causing more delays and backlog. In spite of the problems associated with the move, [she] stated [that] her department was still expected to have things caught up within 24 to 72 hours.”

In an October 8, 2008 report, Dr. Susan Myers, an attending Board-certified psychiatrist, described appellant's medical history and the psychiatric treatment appellant provided during the prior three years. She stated, “During our initial visit [appellant] did state that she felt that the stress of working created an increase in her depressive symptoms. From a temporal relationship it appears more likely than not that her stress on the job at least contributed to the depressive symptoms.”

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<sup>2</sup> Docket No. 08-504 (issued September 3, 2008). On March 21, 2006 appellant, then a 44-year-old medical data technician, filed a claim alleging that she sustained major depression due to harassment by supervisors and coworkers and changes in work procedures and workload. She stopped work on March 8, 2006 and did not return to work. The Office accepted one employment factor but denied appellant's claim on the grounds that she did not submit rationalized medical evidence showing that she sustained an emotional condition due to this accepted employment factor.

<sup>3</sup> In an October 12, 2006 decision, the Office stated, “In May 2002, [Ms.] Qualls wrote a report about you and submitted it to your supervisor. The letter suggested that you are emotionally unstable.”

In an October 16, 2008 decision, the Office denied appellant's claim on the grounds that she did not submit rationalized medical evidence showing that she sustained an emotional condition due to the accepted employment factors.<sup>4</sup>

In a May 6, 2009 letter, appellant's attorney provided instructions to Dr. George P. Corvin, a Board-certified psychiatrist, in order to produce a report evaluating appellant's emotional condition. He listed the accepted employment factors as follows:

"In May 2002, [Ms.] Qualls wrote a letter to Sergeant Askew in which Ms. Qualls expressed concern about [appellant's] behavior. The report suggested that [appellant] was emotionally unstable. Sergeant Askew shared this information with other staff.

"In March 2002, due to a move, [appellant] had to work evenings and weekends resulting from a heavy backlog. During the move the Dictaphone and CHCS systems were constantly backed up and shutting down causing more delays and backlog. Despite the backlogs, [appellant] was still expected to have things caught up within 72 hours."<sup>5</sup>

In a May 12, 2009 report, Dr. Corvin provided an extensive description of appellant's factual and medical history.<sup>6</sup> Appellant reported that the day after her mother's funeral in April 1998 she had to move to the Fort Bragg area to start a job with the employing establishment and, for this reason, she felt that she did not have an adequate opportunity to mourn her mother. She described working in an environment where she was called into work with little notice and at odd times, with an expectation of keeping up with very intense demands despite problems with equipment and other technical issues that made this nearly impossible to do. Appellant detailed situations in which other individuals would take credit for her work or in other ways discredit her and/or treat her unfairly. Dr. Corvin indicated that she reported she was admitted to a mental health unit in 1999 because she became emotional after she heard that a friend at work had lost her husband in an accident. When appellant returned to work, she sustained stress because coworkers began to talk about her having a nervous breakdown and, due to technical problems, she had to work long hours in order to keep up with her workload.

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<sup>4</sup> In its decision, the Office listed the accepted employment factors as they were described in its statement of accepted facts dated September 8, 2008.

<sup>5</sup> In his May 6, 2009 letter, counsel indicated that appellant had an increased workload after she moved to another work site in March 2002. However, the move actually occurred in March 2000 and the workload increase occurred soon after this move.

<sup>6</sup> Dr. Corvin indicated that he reviewed a "Statement of Events and Circumstances." The Board notes that this undated document was apparently produced by counsel and describes numerous incidents and conditions at appellant's workplace that have not been accepted as factual or as constituting compensable employment factors.

Dr. Corvin noted that appellant recalled with considerable distress a letter that a coworker wrote to a supervisor suggesting that she was “mentally unstable” and describing her as “a walking time bomb.” Appellant’s emotional condition deteriorated thereafter and she was admitted to the psychiatric service at Moore Regional Hospital for a week in early March 2006. She stopped work later in March 2006 and asserted that she continues to become emotional when she thinks of her former work situation. Dr. Corvin provided several diagnoses including major depression, recurrent episode, moderate severity (without psychotic features); dysthymic disorder; rule out personality disorder, not otherwise specified, with paranoid features; and occupational problems. With respect to the personality disorder diagnosis, he indicated that a prior treating physician had described appellant as being an individual with strong underlying anger directed at both themselves and the world who tended to be overly suspicious and tended to interpret the actions of others in the most negative way possible. Dr. Corvin also noted that medical records suggest that her mood and anxiety symptoms have proven to be rather resistant to treatment.

Dr. Corvin referenced the contents of the May 6, 2009 letter, in which counsel provided his own account of what he believed were the accepted employment factors and stated, “Referencing this timeframe, [appellant] described feeling increasingly overwhelmed and helpless in a situation where she was compelled to work long hours and to remain timely in completion of her duties although the circumstances of her work environment made that nearly impossible.” He further stated, “with regard to these factors” that her history suggests that she has an underlying vulnerability to symptoms of depression and anxiety and posited that much of this vulnerability likely stems from a preexisting personality condition marked by paranoid traits leading her to misinterpret as malicious the benign motives of others. Dr. Corvin stated:

“With that said, the above noted factors would, in and of themselves, with a reasonable degree of medical certainty result in an exacerbation of [appellant’s] mood and anxiety symptoms. The reported episode in which her medical information was shared with others in the workplace was clearly a source of extreme distress for [her], as it most probably would be for many similarly situated individuals. While there is evidence that [appellant] was already suffering from a clinically relevant degree of psychological distress (in large part stemming from the death of her mother), it is equally apparent that the above noted events exacerbated her condition and have continued to complicate her recovery.”

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“[G]iven her current mental status examination, it is the opinion of the examiner that [appellant] remains incapable of successfully returning to gainful employment at this time. She continues to describe frequent crying spells, social isolation, impaired focus and concentration, periodic suicidal ideation, irritability, suspiciousness of those in authority and sleep impairment. The psychological impairments that she has experienced (and continues to experience) are at least in part related to the overwhelming workload and improper release of her private medical information in the workplace....”

In a December 9, 2009 decision, the Office denied appellant's claim for a work-related emotional condition. It found that the opinion of Dr. Corvin was of limited probative value on the causal relationship between appellant's claimed condition and accepted employment factors. The Office asserted that Dr. Corvin had mischaracterized some of the accepted employment factors.

### **LEGAL PRECEDENT**

Under the Act,<sup>7</sup> a claimant must submit the following to establish her claim that she sustained an emotional condition in the performance of duty: (1) medical evidence establishing that she has an emotional or stress-related disorder; (2) factual evidence identifying employment factors or incidents alleged to have caused or contributed to her condition; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to her stress-related condition.<sup>8</sup> If a claimant does implicate a factor of employment, the Office should then determine whether the evidence of record substantiates that factor.<sup>9</sup> 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>10</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 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 Act.<sup>11</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 finding a causal relationship between the claimant's diagnosed condition and accepted employment factors. The opinion of the physician must be based on a complete and accurate factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported

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<sup>7</sup> *Supra* note 1.

<sup>8</sup> *Leslie C. Moore*, 52 ECAB 132 (2000).

<sup>9</sup> *Dennis J. Balogh*, 52 ECAB 232 (2001).

<sup>10</sup> *Id.*

<sup>11</sup> *Lillian Cutler*, 28 ECAB 125 (1976). The Board has generally found that administrative or personnel matters are unrelated to the employee's regular or specially assigned work duties and do not fall within the coverage of the Act. See *Janet I. Jones*, 47 ECAB 345, 347 (1996); *Jimmy Gilbreath*, 44 ECAB 555, 558 (1993). However, the Board has also found that an administrative or personnel matter will be considered to be an employment factor where the evidence discloses error or abuse on the part of the employing establishment. See *Richard J. Dube*, 42 ECAB 916, 920 (1991).

by medical rationale explaining the nature of the relationship between the diagnosed condition and specific, accepted employment factors.<sup>12</sup>

### ANALYSIS

Appellant alleged that she sustained an emotional condition due to various incidents and conditions at work. In a September 3, 2008 decision, the Board acknowledged several employment factors, including those relating to a May 12, 2002 memorandum produced by Ms. Qualls, a coworker, which described appellant as emotionally unstable; the performance of overtime work between Spring and Autumn 2000 in order to keep up with work assignments; and the malfunctioning of the Dictaphone system during this period which in turn caused a backlog of work.

Appellant submitted a May 12, 2009 report in which Dr. Corvin, an attending Board-certified psychiatrist, provided several diagnoses including major depression, recurrent episode, moderate severity (without psychotic features); dysthymic disorder; rule out personality disorder, not otherwise specified, with paranoid features; and occupational problems. With respect to the personality disorder diagnosis, Dr. Corvin indicated that a prior treating physician had described her as being an individual with strong underlying anger directed at both themselves and the world who tended to be overly suspicious and tended to interpret the actions of others in the most negative ways possible. He found that appellant was totally disabled from work.

Dr. Corvin referenced the contents of a May 6, 2009 letter, in which counsel provided his own account of what he believed were the accepted employment factors and stated, “Referencing this timeframe, [appellant] described feeling increasingly overwhelmed and helpless in a situation where she was compelled to work long hours and to remain timely in completion of her duties although the circumstances of her work environment made that nearly impossible.” He noted that these factors would result in an exacerbation of her mood and anxiety symptoms. Dr. Corvin stated, “The reported episode in which [appellant’s] medical information was shared with others in the workplace was clearly a source of extreme distress for [her], as it most probably would be for many similarly situated individuals.” He indicated that while there was evidence that she was already suffering from a clinically relevant degree of psychological distress, in large part stemming from the death of her mother, it is “equally apparent that the above noted events exacerbated her condition and have continued to complicate her recovery.”

The Board finds that the May 12, 2009 report of Dr. Corvin is not sufficiently well rationalized to establish a causal relationship between appellant’s claimed emotional condition and the accepted employment factors. Dr. Corvin’s opinion on causal relationship is of limited probative value because it is not based on a complete and accurate factual and medical history. He did not provide a clear, accurate description of the accepted employment factors. In reaching his opinion that appellant sustained a work-related condition, Dr. Corvin placed an emphasis on his belief that the Office had accepted that Sergeant Askew, a supervisor, improperly shared Ms. Qualls’ March 12, 2002 memorandum (describing appellant as emotionally unstable) with a

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<sup>12</sup> *Donna Faye Cardwell*, 41 ECAB 730, 741-42 (1990).

number of coworkers. However, the Office has not accepted that this occurred and the record does not otherwise establish the existence of an employment factor in this regard.<sup>13</sup> Moreover, Dr. Corvin indicated that appellant's period of overtime work occurred in 2002 when in fact it actually occurred in 2000. In addition, he stated that he reviewed a document entitled "Statement of Events and Circumstances." The Board notes that this undated document was apparently produced by counsel and describes numerous incidents and conditions at appellant's workplace that have not been accepted as factual or as constituting compensable employment factors. It is unclear to what extent Dr. Corvin's opinion on causal relationship was influenced by this inaccurate document.<sup>14</sup>

Dr. Corvin did not provide a rationalized medical opinion on causal relationship for additional reasons. For example, he did not adequately explain why the accepted employment factors that occurred in 2000 and 2002 would have had such a significant effect on appellant's emotional state for such an extended period.<sup>15</sup> In addition, Dr. Corvin did not adequately explain why her emotional condition was not solely due to nonwork factors, such as a personality disorder or the death of her mother.<sup>16</sup>

For these reasons, appellant did not submit sufficient medical evidence to establish that she sustained an emotional condition in the performance of duty and the Office properly denied her claim.

### **CONCLUSION**

The Board finds that appellant did not meet her burden of proof to establish that she sustained an emotional condition in the performance of duty.

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<sup>13</sup> Dr. Corvin referenced the contents of a May 6, 2009 letter, in which counsel improperly indicated that the Office had accepted that Sergeant Askew shared Ms. Qualls' letter with other staff.

<sup>14</sup> On appeal, counsel argued that Dr. Colvin adequately described the accepted employment factors. However, the Board notes that, for the above-described reasons, the errors in Dr. Corvin's description of the accepted employment factors are significant. Counsel asserted that appellant's claim should be accepted because there is no medical opinion contrary to the proposition that her emotional condition is work related, but appellant's claim was denied because she did not submit a rationalized medical opinion relating her claimed condition to accepted employment factors and the record does not contain such an opinion.

<sup>15</sup> It should be noted that it was not until March 2006 that appellant stopped work and filed an emotional condition claim.

<sup>16</sup> In an October 8, 2008 report, Dr. Myers, an attending Board-certified psychiatrist, described appellant's medical history and stated, "During our initial visit [appellant] did state that she felt that the stress of working created an increase in her depressive symptoms. From a temporal relationship it appears more likely than not that her stress on the job at least contributed to the depressive symptoms." However, Dr. Myers did not provide a rationalized medical opinion relating appellant's claimed emotional condition to specific, accepted employment factors.

**ORDER**

**IT IS HEREBY ORDERED THAT** the December 9, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 16, 2011  
Washington, DC

Alec J. Koromilas, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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