



## **FACTUAL HISTORY**

Appellant, a 41-year-old physician's assistant, filed a Form CA-2 claim for benefits on December 18, 2006, alleging that he developed post-traumatic stress disorder (PTSD) causally related to his two-week deployment to New Orleans as a temporary federal employee in August 2005 in the aftermath of Hurricane Katrina. In a statement dated December 18, 2006, he indicated that, shortly after arriving with the disaster team at New Orleans, he began to experience anxiety, stress, disrupted sleep, disturbing dreams and poor coping mechanisms. These symptoms caused problems with appellant's job, with patient care and with all of his personal relationships. He asserted that the inadequate security, extraordinary number of patients, excessive work hours, lack of sleep and disruption caused by helicopters resulted in his being diagnosed with PTSD. Appellant noted that he had not previously been diagnosed with anxiety or PTSD. He believed, however, that his military career of medical work, and hospital and emergency medicine work may have contributed to his condition.

By decision dated March 7, 2007, OWCP found that appellant did not sustain a stress-related condition in the performance of duty.

In an April 16, 2007 report, Steven Franks, a licensed family and marital therapist, stated that he began to treat appellant for symptoms consistent with PTSD in October 2006. He advised that the onset of these symptoms were attendant with his work as an emergency care provider in New Orleans during Hurricane Katrina. Mr. Franks stated that appellant requested medical leave from work due to concerns that his PTSD symptoms could affect the safety of his patients. Appellant expressed anxiety as to how the nature of his work could trigger memories and feelings related to traumatic events, place his patients at risk and interfere with his current progress.

In statement dated April 18, 2007, Dr. G.R. Brammer, a professional colleague of appellant's since November 1999, stated that he began to notice significant changes in his behavior in the late summer and fall of 2006. He asserted that appellant became less communicative, more withdrawn and had a much flatter affect than normal. Dr. Brammer advised that there was a significant deviation in appellant's baseline mood.

By decision dated April 18, 2008, OWCP denied modification of the March 7, 2007 decision.

In a report dated February 12, 2009, Edwin L. Hill, Ph.D., diagnosed appellant with PTSD. He advised that when appellant reported to New Orleans Airport on August 28, 2005 to assist with medical support services in the wake of Hurricane Katrina, he became overwhelmed by the conditions he encountered, which included understaffing, a lack of supplies and equipment, and overwhelming work hours. Dr. Hill stated that as a result of this assignment he began to experience constant anxiety and tension, hypervigilance to his surroundings, intolerance for being in large groups or in heavy traffic, withdrawal from social interactions, avoidance of public places, insomnia and fatigue. Appellant also developed a sensation of awakening to sounds of helicopters each morning, even after returning home, despite the fact that he lived nowhere near an airport or helicopter landing facility. He was easily startled by loud noises and had chronic problems with cognitive inefficiency, including poor memory and concentration.

Dr. Hill asserted that appellant has had these problems since being deployed to New Orleans. Appellant was unable to work with sufficient productivity and efficiency due to poor attention and concentration, feelings of anxiety, tension, fear and edginess.

Dr. Hill related that, in approximately mid-October 2006, management began to receive numerous complaints about appellant's behavior. Appellant was accused of being intolerant toward patients and too demanding of nurses; allegedly behaved in an overbearing manner when asking for additional nurse support; and in handling conflict situations or agitated/threatening patients. He stated that he felt tense, anxious, sweaty, "bottled up," and unable to cope with these situations. Appellant advised that he and management came to an understanding in early November 2006 that it would be best to terminate his employment without cause. The employing establishment did not renew appellant's contract, which he considered unfair in light of the many positive performance reviews and positive letters of recommendation he had previously received.

Dr. Hill advised that appellant was currently demonstrating significant problems with respect to PTSD, which, as noted, he apparently developed following his traumatic experiences in New Orleans following Hurricane Katrina. While appellant believed that his condition had improved since his release from Katrina duty in September 2005 and his significant relapse following his job loss in November 2006, he still had significant residual symptoms which affected him on a daily basis. Dr. Hill opined that, based on a review of his history, appellant was disabled due to PTSD from November 2006 through May 2008.

By letter dated March 4, 2009, appellant requested reconsideration.

By decision dated June 4, 2009, OWCP accepted the claim for PTSD. It accepted two compensable factors of employment: (1) that he was required to work long hours with little or no sleep; and (2) that he was required to treat patients with severe conditions, which, due to the volume of patients and lack of appropriate staff and supplies, at times became life-threatening conditions. OWCP found that Dr. Hill's report established that the condition of PTSD was causally related to these factors.

On April 16, 2010 appellant filed a Form CA-7 claim for wage-loss compensation from October 14, 2006 to April 7, 2008 and continuing.

By letter dated July 22, 2010, OWCP advised appellant that it required additional medical evidence in support of his claim for total disability compensation during the period claimed. It asked him to submit a detailed, narrative medical report indicating why the claimed disability caused or aggravated by his accepted condition.

In a September 7, 2010 report, Dr. Hill essentially reiterated his previously stated findings and conclusions and reviewed the period in which appellant allegedly became disabled due to PTSD. He related that appellant was surprised when he was told by an employing establishment physician in October 2006 that it had received numerous complaints from the nursing staff about his behavior. Appellant was accused of threatening patients and being too demanding of the nurses when requesting their assistance in handling conflict situations with agitated patients. Dr. Hill noted that appellant chose to seek treatment from Mr. Franks, whom

he had seen for treatment of depression in 2002. Appellant related that he received a letter from the employing establishment on October 13, 2006 informing him that his contract would not be renewed. Dr. Hill stated that appellant's last day of work with Tacoma Emergency Care Physicians was November 6, 2006 and that his contractual agreement was considered completed. Apparently, appellant's problems with PTSD were interfering with his ability to perform his job in a satisfactory manner. Dr. Hill, however, did not examine or treat appellant during the claimed period of disability.

In a March 8, 2011 report, Dr. Steve C. Stringfellow, Board-certified in internal medicine and appellant's treating physician, stated that he initially treated appellant for his stress-related condition on February 9, 2007, at which time he determined that he was severely disabled due to his PTSD, anxiety and depression stemming from his experiences during Hurricane Katrina in September 2005. He opined that appellant was not fit for full or light duty as a physician's assistant as of October 13, 2006 due to the severity of his symptoms. Dr. Stringfellow saw appellant again on May 3, 2007, at which time he reiterated his opinion and prescribed medication which eventually ameliorated his symptoms and allowed him to return to gainful employment on April 8, 2008.

By decision dated September 27, 2010, OWCP denied the claim for compensation on the basis that there was no contemporaneous medical evidence of disability for the period claimed.

On September 29, 2010 appellant requested an oral hearing, which was held on January 28, 2011. At the hearing he testified that he had a contractual agreement with Tacoma Emergency Care Physicians which stated that, if either party chose not to renew the contract, they were both were obligated to provide 90 days of service prior to termination. Appellant stated that when he became aware of the ongoing symptoms he experienced after returning from New Orleans; *e.g.*, nightmares, anxiety, lack of sleep, irritability, inability to concentrate, he began to doubt his ability to perform his usual job duties as an emergency care physician's assistant. He also asserted that he actually stopped working on October 12, 2006, not November 6, 2006, as Dr. Hill had indicated. Appellant indicated that he quit voluntarily because he was overwhelmed by his emotional problems and Mr. Franks and subsequently Dr. Stringfellow recommended that he leave his job.

By decision dated April 7, 2011, OWCP's hearing representative affirmed the September 27, 2010 decision. OWCP found that the medical evidence of record failed to establish that appellant was disabled for work due to the accepted condition of PTSD from October 14, 2006.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>2</sup> has the burden of establishing that the essential elements of his or her claim by the weight of the evidence.<sup>3</sup> Under FECA, the term disability is defined as an inability, due to an employment injury, to earn the wages the employee

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<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Joe D. Cameron*, 41 ECAB 153 (1989).

was receiving at the time of injury, *i.e.*, an impairment resulting in loss of wage-earning capacity.<sup>4</sup> For each period of disability claimed, the employee has the burden of establishing that he or she was disabled for work as a result of the accepted employment injury.<sup>5</sup> Whether a particular injury causes an employee to become disabled for work and the duration of that disability are medical issues that must be proved by a preponderance of probative and reliable medical opinion evidence.<sup>6</sup> The fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.<sup>7</sup> The Board will not require OWCP to pay compensation for disability in the absence of medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow an employee to self-certify his disability and entitlement to compensation.<sup>8</sup>

### ANALYSIS

In the instant case, there is no contemporaneous medical evidence bearing on the issue of whether appellant is entitled to wage loss commencing October 14, 2006. OWCP accepted appellant's claim for PTSD based on the February 12, 2009 report from Dr. Hill, who stated that appellant developed his PTSD condition during his temporary duty as a federal employee in New Orleans in August to September 2005 while providing medical support services after Hurricane Katrina. Dr. Hill advised that appellant was overburdened by the conditions he dealt with on a daily basis and developed symptoms such as anxiety, oversensitivity to his surroundings, intolerance for being in large groups, withdrawal from social interactions, insomnia and fatigue. He concluded that based on his examination and on the symptoms appellant described that he had PTSD. Based on Dr. Hill's report, OWCP accepted a claim for PTSD on June 4, 2009. Appellant subsequently filed a Form CA-7 claim for wage-loss compensation from October 14, 2006 to April 7, 2008 and continuing; however, OWCP denied compensation in its September 27, 2010 decision because there was no medical evidence establishing that his alleged period of disability was causally related to his accepted PTSD condition. The evidence of record establishes that he had difficulties performing his private employment duties during the fall of 2006, a year following his Katrina deployment. Appellant was accused of being intolerant toward patients and too demanding of nurses; he allegedly behaved in an overbearing manner. Dr. Hill noted that management told appellant in October 2006 that his behavior was adversely affecting his coworkers and that they came to a mutual understanding in November 2006 that it would be best to terminate his employment without cause. While he opined that appellant had significant residual problems with PTSD which were affecting his behavior at the time of his termination, Dr. Hill did not provide any medical rationale explaining how his accepted PTSD condition would have caused his current condition. His opinion is of further diminished probative value because he did not examine or treat appellant during this period.

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<sup>4</sup> See *Prince E. Wallace*, 52 ECAB 357 (2001).

<sup>5</sup> *Dennis J. Balogh*, 52 ECAB 232 (2001).

<sup>6</sup> *Gary L. Watling*, 52 ECAB 278 (2001).

<sup>7</sup> *Manual Garcia*, 37 ECAB 767 (1986).

<sup>8</sup> *Amelia S. Jefferson*, 57 ECAB 183 (2005); *Fereidoon Kharabi*, 52 ECAB 291 (2001).

The April 18, 2007 report from Dr. Brammer is merely a summary statement that appellant experienced mood changes and became withdrawn in the late summer and fall of 2006. He did not describe appellant's emotional condition in any detail or how it would have been competent to result in disability at that time. Furthermore, Dr. Brammer never discussed with medical rationale, whether appellant's current private employment duties or his accepted federal employment event a year earlier caused his disability.

Mr. Franks provided psychological therapy to appellant during this period and opined that he became disabled as of October 2006 due to PTSD stemming from his federal employment. He, however, is a behavioral therapist and therefore his reports do not constitute medical evidence pursuant to section 8101(2).<sup>9</sup> Based on this lack of sufficient medical evidence, OWCP properly denied compensation for wage-loss compensation benefits from October 14, 2006 to April 7, 2008 causally related to his federal employment in its September 27, 2010 decision.

Following OWCP's September 27, 2010 decision, appellant requested a hearing and submitted Dr. Stringfellow's March 8, 2011 report. Dr. Stringfellow opined that when he saw appellant on February 9, 2007 he was severely disabled due to his PTSD, anxiety and depression stemming from his experiences as a temporary federal worker during Hurricane Katrina in September 2005. He further stated that appellant was not fit for duty as a physician's assistant as of October 13, 2006 due to the severity of his symptoms. The record indicates, however, that appellant was not working at the time Dr. Stringfellow began treating him because he and management mutually agreed that he should step down from his job as an emergency physician's assistant with Tacoma Emergency Care Physicians in October 2006.<sup>10</sup> Appellant stated at the hearing that he quit the position voluntarily because he was overwhelmed by his emotional problems.

As stated above, appellant is entitled to compensation for wage loss for whatever periods are attributable to his work-related condition, in accordance with a "current narrative medical report indicating disability for the period in question or projecting disability through the period of claimed compensation." However, Dr. Stringfellow's report did not provide a probative, rationalized medical opinion establishing that he was disabled for work due to the accepted PTSD condition for the period commencing October 14, 2006.<sup>11</sup> Appellant was not working at the time Dr. Stringfellow initially examined him in May 2007 and, while he alleged that he had to stop working in October 2006 due to residual effects from his accepted PTSD condition, there is no contemporaneous medical evidence in the record which supports this assertion. Furthermore, Dr. Stringfellow did not directly address, with medical rationale, whether appellant

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<sup>9</sup> 20 C.F.R. § 8101(2). Section 8101(2) provides that the term physician includes clinical psychologists within the scope of their practice as denied by state law. See *Jacqueline E. Brown*, 54 ECAB 583 (2003). A family therapist or marriage counselor is not a physician under FECA. See *Joe L. Wilkerson*, 47 ECAB 604 (1996). See also *Nancy A. Johnson-Charpentier*, Docket No. 04-1599 (issued July 25, 2005).

<sup>10</sup> Mr. Franks stated that appellant left work after applying for medical leave due to PTSD. Dr. Hill had indicated that management at Tacoma Emergency Care Physicians had approached appellant with complaints about his behavior from coworkers and had advised him to leave his position.

<sup>11</sup> *William C. Thomas*, 45 ECAB 591 (1994).

had any disability for work causally related to the accepted condition at the time appellant stopped working. As previously noted, the record remains without medical evidence explaining why appellant's behavior in his private employment, which led to his unemployment, was medically caused by his Katrina deployment one year prior.

As noted above, to establish entitlement to compensation, an employee must establish through competent medical evidence that disability from work resulted from the employment injury.<sup>12</sup> The Board will not require OWCP to pay compensation for disability in the absence of medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow an employee to self-certify their disability and entitlement to compensation.<sup>13</sup> Appellant has the burden to demonstrate his disability for work based on rationalized medical opinion evidence. The issue of whether a claimant's disability is related to an accepted condition is a medical question which must be established by a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disability is causally related to employment factors and supports that conclusion with sound medical reasoning.<sup>14</sup> There is no such evidence in this case. Dr. Stringfellow did not offer any opinion or supporting medical rationale regarding the date that appellant's disability began or his disability for work for any additional periods. His opinion does not contain any medical rationale explaining how or why appellant's PTSD condition was affected by or related to factors of employment during the period from October 14, 2006.<sup>15</sup> The report from Dr. Stringfellow failed to establish that appellant was disabled for work during this period.

Appellant has thus failed to submit such evidence which would indicate that his PTSD condition caused any wage loss for the claimed period. He has not provided a rationalized opinion supporting his disability for work for the period in question. The evidence establishes that appellant did not return to work as he awaited a medical examination; thus, this circumstance is not sufficient to establish disability for work.

OWCP properly denied appellant's claim for wage-loss compensation.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant has not met his burden of proof in establishing that he was entitled to compensation for wage loss from October 14, 2006 causally related to his accepted federal employment injury.

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<sup>12</sup> *Donald E. Ewals*, 51 ECAB 428 (2000).

<sup>13</sup> *Paul E. Thams*, 56 ECAB 503 (2005).

<sup>14</sup> *Howard A. Williams*, 45 ECAB 853 (1994).

<sup>15</sup> *Id.*

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 7, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 16, 2012  
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