

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

	)	
<b>J.A., Appellant</b>	)	
	)	
<b>and</b>	)	<b>Docket No. 12-1964</b>
	)	<b>Issued: April 25, 2013</b>
<b>DEPARTMENT OF VETERANS AFFAIRS,</b>	)	
<b>VETERANS ADMINISTRATION MEDICAL</b>	)	
<b>CENTER, Richmond, VA, Employer</b>	)	
	)	

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
 COLLEEN DUFFY KIKO, Judge  
 PATRICIA HOWARD FITZGERALD, Judge  
 JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On September 25, 2012 appellant filed a timely appeal from an August 29, 2012 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) 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 sustained an emotional condition in the performance of duty causally related to factors of his federal employment.

**FACTUAL HISTORY**

On March 19, 2010 appellant, then a 55-year-old nurse, filed an occupational disease claim alleging that he sustained increased stress and post-traumatic stress disorder (PTSD) due to

---

<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

“patient care issues.” The employing establishment controverted the claim, asserting that he had not established that his condition was due to his employment.<sup>2</sup>

On March 19, 2010 Dr. Raymond Decker, Board-certified in family medicine, evaluated appellant at the employing establishment’s health clinic for an exacerbation of PTSD. He noted that appellant had a history of a prior back injury and that his PTSD had increased over the past few months. Dr. Decker indicated that appellant related that he could not work due to pain and depression.

By letter dated May 6, 2012, OWCP requested that appellant submit additional information, including a factual statement describing the work factors to which he attributed his condition and a detailed medical report addressing causal relationship.

In reports dated April 28 and May 26, 2010, Dr. Ananda Chellappan, a psychiatrist, indicated that he had referred appellant to a licensed clinical social worker for management of his PTSD. He found that appellant was unable to work.

Appellant submitted a report dated June 1, 2010 from a social worker. He also submitted a December 6, 2011 work restriction evaluation from a social worker. On July 26, 2010 Dr. Chellappan advised that appellant was unable to work due to depression, anxiety and flashbacks.

On December 2, 2011 a licensed social worker found that appellant was totally disabled from employment due to “marked anxiety exacerbated by chronic pain.” He diagnosed symptoms of PTSD.

By decision dated March 19, 2012, OWCP denied appellant’s emotional condition claim after finding that he had not established fact of injury. It determined that he had not responded to its request for a factual statement identifying the factors to which he attributed his condition.

On March 23, 2012 appellant, through his attorney, requested a telephone hearing before an OWCP hearing representative.

In a November 26, 2010 progress report, received by OWCP on May 11, 2012, Dr. Daniel E. Lonnquist, a clinical psychologist, reviewed appellant’s history of physical assault when he was in the military and stationed in Germany. He diagnosed chronic, moderate PTSD due to “the apparent racial gang attack which he reports as occurring when he was stationed with the military in Germany in 1974....” Dr. Lonnquist noted that appellant was on workers’ compensation for a back injury sustained lifting a patient. He stated, “[Appellant’s] back condition with his inability to work apparently aggravated his PTSD symptoms.” Dr. Lonnquist advised that appellant could perform some type of employment.

On July 11, 2012 appellant requested a review of the written record. On July 12, 2012 OWCP’s hearing representative asked him to provide a statement describing the incidents to

---

<sup>2</sup> On May 28, 2010 the employing establishment noted that appellant had attributed his condition to issues with patient care. It maintained that he had not established causal relationship.

which he attributed his condition and medical evidence explaining the relationship between the work incidents and his PTSD.

In a statement dated July 13, 2012, appellant related that on October 14, 2009 he tried to get one of his patients “moved to an area with the proper level of care.” He related that he did not have the proper respiratory equipment to adequately monitor the patient. Subsequent to this incident appellant experienced a loss of functioning and an exacerbation of his PTSD. He also attributed the aggravation of his PTSD to pain from a prior employment injury.

In an e-mail message dated October 14, 2009, appellant advised his supervisor that he had experienced difficulty monitoring a patient as he did not have the proper equipment.

By decision dated August 29, 2012, OWCP’s hearing representative affirmed the March 19, 2012 decision as modified to show that appellant had established a compensable factor of employment. She found that he had established that he experienced stress while performing his duties caring for a patient in October 2009.<sup>3</sup> The hearing representative determined that the medical evidence did not establish that appellant sustained an emotional condition causally related to the accepted work factor. She instructed OWCP, however, to adjudicate whether appellant had established an emotional condition as a consequence of his previously accepted back injury after combining the two file numbers.

On appeal, appellant argued that there were irregularities and mistakes made by OWCP and therapists in his case.

### **LEGAL PRECEDENT**

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 his regular or specially assigned duties or to a requirement imposed by the employment, the disability comes within the coverage of FECA.<sup>4</sup> On the other hand, the disability is not covered where it results from such factors as an employee’s fear of a reduction-in-force or his frustration from not being permitted to work in a particular environment or to hold a particular position.<sup>5</sup>

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors in causing a condition or disability, OWCP, 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

---

<sup>3</sup> OWCP’s hearing representative found that appellant alleged that on October 14 and 16, 2009 he was concerned that he lacked the proper equipment to care for a patient; however, it appears from his statement that the event occurred on October 14, 2009.

<sup>4</sup> 5 U.S.C. § 8101 *et seq*; *Trudy A. Scott*, 52 ECAB 309 (2001); *Lillian Cutler*, 28 ECAB 125 (1976).

<sup>5</sup> *Gregorio E. Conde*, 52 ECAB 410 (2001).

providing an opinion on causal relationship and which working conditions are not deemed factors of employment and may not be considered.<sup>6</sup> If a claimant does implicate a factor of employment, OWCP 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, it must base its decision on an analysis of the medical evidence.<sup>7</sup>

Causal relationship is a medical issue, and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.<sup>8</sup> The opinion of the physician must be based on a complete factual and medical background of the claimant,<sup>9</sup> must be one of reasonable medical certainty<sup>10</sup> explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>11</sup>

### ANALYSIS

Appellant alleged that he sustained an exacerbation of preexisting PTSD attempting to obtain a higher level of care for one of his patients. OWCP accepted as a compensable work factor that he attributed his emotional condition to his regular work duties of caring for patients. It found, however, that the medical evidence did not establish that appellant sustained an emotional condition due to the compensable employment factor.

Appellant must submit rationalized medical opinion evidence establishing that his emotional condition is causally related to the accepted employment factor.<sup>12</sup> On March 19, 2010 Dr. Raymond Decker, Board-certified in family medicine, noted that he had experienced an increase in his symptoms of PTSD over the past couple of months. He diagnosed an exacerbation of PTSD and noted that appellant stated that he could not work as a result of a combination of pain and depression. As Dr. Decker did not attribute the exacerbation of PTSD to the compensable work factor, his opinion is of little probative value.<sup>13</sup>

On April 28 and May 26, 2010, Dr. Chellappan found that appellant was unable to work and noted that he had referred him to a licensed clinical social worker for management of his PTSD. On July 26, 2010 he opined that he was unable to work due to depression, anxiety and flashbacks. Dr. Chellappan did not attribute appellant's PTSD or inability to work to the

---

<sup>6</sup> *Dennis J. Balogh*, 52 ECAB 232 (2001).

<sup>7</sup> *Id.*

<sup>8</sup> *John J. Montoya*, 54 ECAB 306 (2003).

<sup>9</sup> *Tomas Martinez*, 54 ECAB 623 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

<sup>10</sup> *John W. Montoya*, *supra* note 8.

<sup>11</sup> *Judy C. Rogers*, 54 ECAB 693 (2003).

<sup>12</sup> *Charles D. Gregory*, 57 ECAB 322 (2006).

<sup>13</sup> *See M.D.*, 59 ECAB 211 (2007); *Vitaliy Y. Matviiv*, 57 ECAB 193 (2005).

compensable work factor occurring in October 2009 and thus his opinion is of diminished probative value.<sup>14</sup>

In a report dated November 26, 2010, Dr. Lonquist diagnosed chronic, moderate PTSD due to an incident that occurred during appellant's military service in 1974. He also found that an employment-related back injury caused an apparent aggravation of his PTSD. As Dr. Lonquist did not attribute a condition to the accepted employment factor, his report is insufficient to meet appellant's burden of proof.<sup>15</sup>

Appellant submitted reports dated June 1, 2010 and December 2 and 6, 2011 from a licensed clinical social worker. It is well established, however, that medical evidence must be from a qualified physician.<sup>16</sup> A licensed clinical social worker is not a physician as defined by FECA. An opinion from a social worker is, therefore, of no probative value.<sup>17</sup>

On appeal, appellant argues that OWCP and therapists made mistakes in his case. He has the burden, however, to establish that he sustained an emotional condition caused or aggravated by the compensable work factor through the submission of rationalized medical evidence.<sup>18</sup> Appellant did not submit such evidence and thus failed to meet his burden of proof.

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 and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant has not established that he sustained an emotional condition in the performance of duty causally related to factors of his federal employment.

---

<sup>14</sup> *Id.*

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

<sup>16</sup> See *Vickey C. Randall*, 51 ECAB 357 (2000); *Arnold A. Alley*, 44 ECAB 912 (1993).

<sup>17</sup> See *Sedi L. Graham*, 57 ECAB 494 (2006); see also 5 U.S.C. § 8101(2), which provides that the term physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law.

<sup>18</sup> See *Alice M. Washington*, 46 ECAB 382 (1994).

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 29, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 25, 2013  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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