United States Department of Labor
Employees' Compensation Appeals Board

M.B., Appellant	)	
and	)	**Docket No. 14-1032**
	)	**Issued: November 12, 2014**
DEPARTMENT OF THE ARMY, Saudi Arabia, Employer	)	

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

Oral Argument September 4, 2014

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On April 14, 2014 appellant filed a timely appeal of a March 12, 2014 decision of the Office of Workers' Compensation Programs (OWCP) which denied her claim for compensation. Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merit decision of the case.

ISSUE

The issue is whether appellant met her burden of proof to establish that she was totally disabled for the period January 13 to February 6, 2013 causally related to her accepted condition.

FACTUAL HISTORY

On June 12, 2012 appellant then a 62-year-old information technology (IT) specialist, filed an occupational disease claim alleging that she developed clinical depression and anxiety as a result of a greatly increased workload and excessive expectations by senior leaders beginning

[1] 5 U.S.C. §§ 8101-8193.

in 2009. The working conditions exacerbated her existing clinical depression and anxiety. Appellant became aware of her condition on January 1, 1980 and realized it was causally related to her employment on October 1, 2009. She stopped work on August 21, 2011 due to a nonwork-related condition and returned to full-time modified duties in January 2012. Appellant worked from January to April 22, 2012 when she stopped completely. She was on sick leave from April 22, 2012 to January 12, 2013 when she retired.

Appellant was treated by Dr. Susan Leisa Leonard, a clinical neuropsychologist, for cognitive and memory abilities. She was hospitalized in August 2011 for a subarachnoid hemorrhage and, since that time, had problems with short-term memory, concentration, organization and completion of multi-step tasks. Appellant noted lifelong issues with depression, anxiety and panic attacks. She reported being an IT specialist and supervisor, who had trouble completing her tasks and keeping up with the workload. Dr. Leonard diagnosed intact neurocognitive profile, depression, anxiety and social introversion and a reported history of subarachnoid hemorrhage and headaches.

Appellant was treated by Dr. Melanie Tew, a Board-certified psychiatrist. In an August 30, 2012 report, Dr. Tew advised that appellant had intermittent depression for 40 years, a subarachnoid hemorrhage in August 2011 at work and panic attacks in the workplace since 2009. The mental status examination revealed depressed and anxious mood, affect was consistent with mood and content and oriented to time, place, person and situation. Dr. Tew diagnosed major depressive affective disorder recurrent episode moderate degree, anxiety state unspecified, onset date August 30, 2012. In an October 1, 2012 report, she noted appellant's mental status examination was unchanged from the August 30, 2012 report. Dr. Tew diagnosed recurrent major depressive affective disorder episode, moderate and anxiety, with an August 30, 2012 onset. In an October 1, 2012 progress report, she noted appellant's belief that her subarachnoid hemorrhage and panic disorder were due to experiences as an employee at the employing establishment and contributed to her panic symptoms and stroke. Dr. Tew obtained a history that appellant reported to superiors who were very intimidating and demanding, she had increased workload resulting from program growth and she had to work increased hours to complete tasks. She noted that appellant often was required to act as G6 chief when her manager was on extended leave. As a result, appellant had to attend numerous meetings with the expectation that she would represent her manager. At that time, she felt mentally and emotionally unprepared to effectively function in these situations. Since her stroke, appellant had increasing difficulty performing her work tasks with short-term memory problems that affected her ability to perform routine tasks. Dr. Tew opined that appellant's work was unduly stressful and was the likely cause for her panic and other anxiety symptoms. She opined that stress can cause increased blood pressure that could have led to her subarachnoid hemorrhage. Dr. Tew concluded that appellant was disabled by the mild cognitive impairment and anxiety disorder and could not return to work in Saudi Arabia.

On January 11, 2013 OWCP accepted appellant's claim for exacerbation of major depression, recurrent episode, moderate and exacerbation of anxiety state, unspecified.[2] It found that Dr. Tew diagnosed major depression, recurrent episode; moderate, and exacerbation of anxiety state, unspecified. OWCP found that she provided a well-reasoned opinion which related appellant's condition to the accepted factors of employment.

In a letter dated January 25, 2013, OWCP requested Dr. Tew to address the extent of the accepted exacerbations of appellant's preexisting depression and anxiety, whether the exacerbations were temporary or permanent, whether appellant could perform her regular work duties and, if she was disabled, whether she had the capacity to work with restrictions.

On February 6, 2013 appellant filed a Form CA-7, claim for compensation for the period January 13 to February 6, 2013. In a Form CA-7a, time analysis form, the employing establishment confirmed the hours of leave without pay and noted she retired on January 12, 2013.

In an April 12, 2013 letter, OWCP informed appellant that she stopped work on April 12, 2012 and was on sick leave until her retirement on January 12, 2013. Since appellant was not on the periodic rolls or receiving wage-loss compensation her claim would be developed as a recurrence. OWCP asked her to submit factual and medical evidence to establish her claim for recurrence of disability, particularly requesting that she submit a physician's reasoned opinion addressing the relationship of her claimed condition and specific employment factors.

In letters dated April 26 and May 15, 2013, appellant, through counsel, asserted that her claim was not a recurrence noting that her last exposure to work factors that contributed to her accepted condition was on April 21, 2012 and she was on leave thereafter. She noted that this was her first claim for compensation and should proceed under the Form CA-7 submitted. In an OWCP questionnaire, appellant advised that she was not claiming a recurrence, rather, a claim for compensation. She noted that her last day of work was April 21, 2012 and she was on leave from April 22, 2012 until her retirement on January 12, 2013. Appellant was under the care of a physician continuously and had no other injuries since her claim was accepted.

In a May 15, 2013 report, Dr. Tew noted treating appellant since August 2012. She determined appellant's symptoms began in 2009 and her attempt to return to work in 2012 was unsuccessful. Dr. Tew diagnosed major depression and panic disorder, conditions which tend to be relapsing and remitting. She noted that appellant continually reported symptoms despite aggressive medication management. Dr. Tew was reported to be very sensitive to stress and had mild panic symptoms in very minimally stressful situations. She noted that appellant was not recovering as she would expect and questioned whether this was related to the stroke that she had during the onset of this illness. Dr. Tew opined that given appellant's current state, her current level of functioning would be persistent for at least another year. She noted that appellant could

[2] OWCP found the following events to be factors of employment: appellant was required to perform duties as a G6 acting chief when her manager was absent which increased her responsibilities and workload; she was required to work many hours of overtime due to her increased responsibilities and workload while performing the duties as a G6 acting chief; and she was required to deal with complaints and questions regarding slow network speed due to limitations as a result of technical realities of life in Saudi Arabia as part of her job.

not perform any regular work duties and this was possibly indefinite. Dr. Tew noted appellant's stroke occurred when appellant was stressed in a work environment and her anxiety and depression were exacerbated by work stress. She opined that appellant could not perform any and all types of work-related daily activities.

In a July 9, 2013 decision, OWCP found that the evidence submitted did not establish that appellant sustained a recurrence of disability causally related to her work injury.

On July 13, 2013 appellant requested an oral hearing which was held on December 19, 2013. She submitted a June 4, 2012 report from Dr. Leonard and reports from Dr. Tew dated August 30 to October 1, 2012, previously of record.

Appellant also submitted reports from Dr. Heidi Schecodnic, a Board-certified internist, dated December 11, 2008 and January 2, 2009 who treated her for hyperlipidemia, palpitations and acute sinus infections. Dr. Schecodnic recommended diet modification and exercise. In an October 17, 2011 report, she treated appellant status post subarachnoid hemorrhage in August 2011. Appellant reported having headaches, vision and memory issues. Dr. Schecodnic diagnosed status post subarachnoid hemorrhage August 2011, hypertension and hyperlipidemia.

In an August 24, 2011 report, Dr. M. Akram Knawaia, a family practitioner, treated appellant for neck pain, headaches and vomiting. An August 24, 2011 CT scan of the head showed a subarachnoid hemorrhage. Reports from Dr. Joshua Dittmer, a Board-certified psychiatrist, dated October 18, 2011 to November 8, 2012, diagnosed moderate major depression, recurrent episode, moderate. Dr. Dittmer noted that appellant had a subarachnoid hemorrhage in August 2011 and she reported memory issues. March 23 to June 25, 2012 reports from Dr. Keith L. Hull, Jr., a Board-certified neurologist, noted treating appellant for poor recall. Appellant reported having a subarachnoid hemorrhage as a result of an unpleasant work environment with work pressure and noted her recall since that time had been imperfect. Dr. Hull diagnosed subarachnoid hemorrhage. On May 4, 2012 he performed an electromyogram which revealed electrophysiologic evidence of bilateral carpal tunnel syndrome and borderline evidence of bilateral ulnar mononeuropathies. In a June 23, 2012 report, Dr. Hull opined that the subarachnoid hemorrhage caused cognitive decline and some coincidental depression.

In an October 6, 2013 statement, Tina AlSadhan, appellant's supervisor, noted that appellant became ill in August 2011. Upon returning to work from extended sick leave, appellant was unable to perform the duties she performed before her illness. She was unable to think clearly, had memory issues, vision challenges and was concerned that the stress from the work environment would inhibit her recovery and cause a relapse. Ms. AlSadhan noted that appellant used sick leave to seek treatment in the U.S. and, upon returning to work, she attempted to adjust appellant's duties but the challenges of supporting the information technology and communications of the organization, a shortage of personnel and growing requirements, made the work environment challenging and demanding.

In a decision dated March 12, 2014, an OWCP hearing representative affirmed the July 9, 2013 decision as modified. She noted that appellant's initial work stoppage began on April 22, 2012 although no claim for wage loss was made before January 13, 2013 therefore the

claim was not for a recurrence of disability but an initial claim for wage-loss compensation. The hearing representative denied appellant's claim for wage-loss compensation for the period January 13 to February 6, 2013 on the grounds that the medical evidence was insufficient to establish the period of disability claimed was causally related to her work injury.[3]

LEGAL PRECEDENT

A claimant has the burden of proving by a preponderance of the evidence that he or she is disabled for work as a result of an accepted employment injury and submit medical evidence for each period of disability claimed.[4] Whether a particular injury causes an employee to be disabled for employment and the duration of that disability are medical issues.[5] The issue of whether a particular injury causes disability for work must be resolved by competent medical evidence.[6] To meet this burden, a claimant must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting a causal relationship between the alleged disabling condition and the accepted injury.[7]

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 or her disability and entitlement to compensation. 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.[8]

ANALYSIS

OWCP accepted appellant's claim for exacerbation of major depression, recurrent episode, moderate and exacerbation of anxiety state, unspecified. Appellant stopped work on August 21, 2011 due to a nonwork-related condition and returned to full-time modified duties in January 2012. She worked from January to April 2012 when she stopped completely. Appellant used sick leave from April 22, 2012 to January 12, 2013, when she retired. The Board finds that the medical evidence is insufficient to establish total disability from January 13 to February 6, 2013 caused or aggravated by the accepted conditions.

[3] OWCP's hearing representative noted that the work stoppage from August 21, 2011 to January 2012 was not related to the work injury but to a nonwork-related condition of subarachnoid hemorrhage. The evidence revealed that appellant continued to work until April 22, 2012 and elected to take leave and used leave until her retirement of January 12, 2013.

[4] *See Fereidoon Kharabi*, 52 ECAB 291 (2001).

[5] *Id.*

[6] *See Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

[7] *C.S.*, Docket No. 08-2218 (issued August 7, 2009).

[8] *Sandra D. Pruitt*, 57 ECAB 126 (2005).

Appellant submitted a May 15, 2013 report from Dr. Tew, who noted treating appellant since August 2012. Dr. Tew noted appellant's symptoms began in 2009 and she attempted to return to work in 2012 but was unsuccessful. She diagnosed major depression and panic disorder, conditions which tend to be relapsing and remitting. Dr. Tew noted that appellant continually reported symptoms despite aggressive medication management and that appellant was not recovering as she would expect. She questioned whether this was related to the stroke and opined that appellant's current level of functioning would persist for at least another year such that appellant could not perform any regular work duties. Dr. Tew indicated appellant's stroke did occur when appellant was stressed in a work environment and her anxiety and depression were exacerbated by stress at work. She opined that appellant was unable to perform any and all types of work-related daily activities.

While Dr. Tew opined that appellant was totally disabled, she did not specifically address the periods of disability beginning January 13 to February 6, 2013 or explain how any disability from January 13 to February 6, 2013 was employment related. Rather, she noted that appellant was not recovering as she would expect and questioned whether this was related to her stroke. OWCP did not accept appellant's stroke as work related. Appellant's burden of proof includes submitting rationalized medical evidence which supports a causal relationship between the period of disability and the accepted injury.[9] These reports are insufficient to meet her burden of proof.

Appellant submitted December 11, 2008 and October 17, 2011 reports from Dr. Schecodnic who diagnosed status post subarachnoid hemorrhage August 2011, hypertension and hyperlipidemia. An August 24, 2011 report from Dr. Knawaia noted treating appellant for neck pain, headaches and vomiting. Reports from Dr. Dittmer dated October 18, 2011 to November 8, 2012, diagnosed moderate major depression, recurrent episode, moderate. Reports from Dr. Hull dated March 23 to June 25, 2012 diagnosed subarachnoid hemorrhage, cognitive decline post subarachnoid hemorrhage, bilateral carpal tunnel syndrome and borderline evidence of bilateral ulnar mononeuropathies. However this evidence is of no value in establishing the claimed period of total disability from January 13 to February 6, 2013 since it predates the time of the claimed period of total disability and does not otherwise address the claimed disability during that period.

Other evidence, including a CT scan of the head dated August 24, 2011, did not address the cause of appellant's claimed disability beginning January 13, 2013.[10] Therefore, this evidence is insufficient to meet her 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(a) and 20 C.F.R. §§ 10.605 through 10.607.

[9] *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value); *Jimmie H. Duckett*, 52 ECAB 332 (2001).

[10] *A.D.*, 58 ECAB 149 (2006) (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).

During oral argument, appellant asserted that she submitted sufficient medical evidence supporting disability for the period claimed and referenced Dr. Tew's report. She indicated that Dr. Tew provided the necessary medical report and opinion that appellant was not able to perform her job duties on January 13, 2013. The Board notes that while Dr. Tew opined appellant was totally disabled from work, she did not specifically explain how any disability from January 13 to February 6, 2013 was employment related. Appellant failed to submit rationalized medical evidence which supports a causal relationship between the period of disability and the accepted injury.

CONCLUSION

The Board finds that appellant has failed to establish that her disability for the period beginning January 13 to February 6, 2013 is causally related to the accepted employment injury.

ORDER

IT IS HEREBY ORDERED THAT the March 12, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 12, 2014
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

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

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