

which he was exposed when he worked in Afghanistan. He indicated that he first became aware of his claimed condition on June 25, 2012 and that he first realized on August 4, 2012 that it was caused or aggravated by his work.

In accompanying statements, appellant described his first 12-month tour of duty working in Paktia Province of Afghanistan for the employing establishment between February 2008 and February 2009. As an advisor helping to rebuild Afghanistan's infrastructure, he had to travel to remote and dangerous locations. Appellant noted that he survived numerous rocket attacks during the middle of the night in his bunker at Base Wilderness. He stated that several people were killed when a mortar attack severely damaged the chow hall. One of appellant's closest confidants was killed by an improvised explosive device (IED) in June 2008. He stated that, in June 2012, during a second tour of duty in Wardar Province in Afghanistan, he was improperly required to submit to a medical examination in Kabul, Afghanistan, in establish determine his fitness for duty. Appellant asserted that the medical personnel were not qualified to evaluate his heart problems and that the employing establishment wrongly sent him home from Afghanistan for medical reasons. He also submitted a number of medical reports in support of his claim.²

In a September 17, 2014 letter, OWCP requested that appellant submit additional factual and medical evidence in support of his claim.

In an undated statement received on October 14, 2014, appellant further discussed his emotional condition symptoms and continued to argue that the employing establishment improperly subjected him to a fitness duties medical examination in June 2012 and improperly sent him home from Afghanistan. He also submitted an October 7, 2014 statement from a friend who noticed that appellant suffered from depression and anxiety after he returned from Afghanistan.

In a November 5, 2014 decision, OWCP denied appellant's emotional condition claim, finding that he had not established any compensable work factors. In particular, it noted that he had not established a compensable work factor with regard to the medical examination he underwent in June 2012.

Appellant requested reconsideration of his claim and submitted statements in which he further discussed his work duties during his first tour of duty in Afghanistan between 2008 and 2009. He stated that he could not precisely state when his work-related emotional condition started, but noted that it was most likely in June 2008 when people he worked closely with were killed in an IED attack. Appellant noted that when he was required to undergo a medical examination in Kabul in June 2012 "something snapped in my brain." He also submitted documents pertaining to his work duties between 2008 and 2009.

² In an undated letter received on September 11, 2014, an employing establishment official stated that he had limited knowledge of appellant's tours of duty in Afghanistan.

In a decision dated February 25, 2015, OWCP affirmed its November 5, 2014 decision denying appellant's emotional condition claim. It again found that he had not established any compensable work factors.³

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 or her regular or specially assigned duties or to a requirement imposed by the employment, the disability comes within the coverage of FECA.⁴ 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 or her frustration from not being permitted to work in a particular environment or to hold a particular position.⁵

Administrative and personnel matters, although generally related to the employee's employment, are administrative functions of the employer rather than the regular or specially assigned work duties of the employee and are not covered under FECA.⁶ However, the Board has held that, where the evidence establishes error or abuse on the part of the employing establishment in what would otherwise be an administrative matter, coverage will be afforded.⁷ In determining whether the employing establishment has erred or acted abusively, the Board will examine the factual evidence of record to determine whether the employing establishment acted reasonably.⁸

A claimant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which he or she claims compensation was caused or adversely affected by employment factors.⁹ This burden includes the submission of a detailed description of the employment factors or conditions which appellant believes caused or adversely affected a condition for which compensation is claimed and a rationalized medical opinion relating the claimed condition to compensable employment factors.¹⁰

³ The decision states that OWCP did not review the merits of the claim. However, the contents of the decision indicate that OWCP considered the merits of the claim in finding that appellant had not established a compensable factor of employment.

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

⁵ *Gregorio E. Conde*, 52 ECAB 410 (2001).

⁶ *Matilda R. Wyatt*, 52 ECAB 421 (2001); *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 556 (1991).

⁷ *William H. Fortner*, 49 ECAB 324 (1998).

⁸ *Ruth S. Johnson*, 46 ECAB 237 (1994).

⁹ *Pamela R. Rice*, 38 ECAB 838, 841 (1987).

¹⁰ *Effie O. Morris*, 44 ECAB 470, 473-74 (1993).

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 providing an opinion on causal relationship and which working conditions are not deemed factors of employment and may not be considered.¹¹ 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, OWCP must base its decision on an analysis of the medical evidence.¹²

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 rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the compensable 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 by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.¹³

ANALYSIS

Appellant alleged that he sustained an emotional condition as a result of a number of employment incidents and conditions. OWCP denied his emotional condition claim, finding that he had failed to establish any compensable employment factors. The Board must, initially review whether these alleged incidents and conditions of employment are covered employment factors under the terms of FECA.

The Board notes that some of appellant's allegations appear to relate to his regular or specially assigned duties under *Cutler*.¹⁴ Appellant indicated that in 2008 and 2009 he was subjected to stressful work conditions while attempting to perform his work duties in Afghanistan. The Board finds, however, that he did not establish the factual aspects of these claims regarding his work duties. Appellant indicated that he survived numerous rocket attacks during the middle of the night in his bunker at Base Wilderness and that several people were killed when a mortar attack severely damaged the chow hall. However, he did not provide details about precisely where he was located, what he was doing, and what he witnessed during these incidents. Appellant stated that one of his closest confidants was killed by an IED in June 2008, but he did not indicate that he witnessed this attack. Moreover, he did not provide any supporting evidence to establish his assertions regarding these matters.

¹¹ See *Norma L. Blank*, 43 ECAB 384, 389-90 (1992).

¹² *Id.*

¹³ *Donna Faye Cardwell*, 41 ECAB 730, 741-42 (1990).

¹⁴ See *Cutler*, *supra* note 4.

In addition, appellant has alleged error and abuse with respect to personnel or administrative matters. In particular, he alleged that his employing establishment mishandled a medical examination in June 2012 and improperly had sent him home from Afghanistan for medical reasons. Appellant asserted that the medical personnel who performed his June 2012 fitness-for-duty examination were not qualified to evaluate his heart problems. Such administrative and personnel matters, although generally related to the employee's employment, are administrative functions of the employing establishment rather than the regular or specially assigned work duties of the employee and are not covered under FECA. However, the Board has held that, where the evidence establishes error or abuse on the part of the employing establishment in what would otherwise be an administrative matter, coverage will be afforded.¹⁵ The Board finds that appellant has not established error or abuse with respect to management's handling of his medical examination and the decision to send him home for medical reasons. Appellant did not submit sufficient evidence to establish the occurrence of such claimed wrongdoing by management. For example, he did not submit the findings of a grievance showing that error or abuse occurred with respect to the medical examination or being sent home for medical reasons. Therefore, appellant has not established a compensable work factor with respect to administrative or personnel matters.¹⁶

For the foregoing reasons, appellant has not established any compensable employment factors under FECA and, therefore, has not met his burden of proof to establish an emotional condition in the performance of duty.¹⁷

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 did not meet his burden of proof to establish an emotional condition in the performance of duty.

¹⁵ See *supra* notes 6 and 7.

¹⁶ On appeal, appellant asserts that OWCP failed to acknowledge information regarding his claim, but he did not identify the specific information that OWCP failed to acknowledge.

¹⁷ As appellant has not established any compensable employment factors, the Board need not consider the medical evidence of record; see *Margaret S. Krzycki*, 43 ECAB 496, 502-03 (1992).

ORDER

IT IS HEREBY ORDERED THAT the February 25, 2015 and November 5, 2014 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: September 1, 2015
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board