

FACTUAL HISTORY

On March 27, 2013 appellant, then a 40-year-old claims examiner, filed an occupational disease claim (Form CA-2)³ alleging that she sustained an injury as a result of her federal employment. The date she first became aware of the condition was reported as June 12, 2012, and the date she first realized the condition was employment related was March 13, 2013.

By letter dated March 28, 2013, OWCP requested that appellant submit additional evidence. On March 29, 2013 appellant submitted a note dated March 14, 2013 from Dr. Gregory Kushnick, a psychologist, stating that she was unable to work until further evaluation. On April 29, 2013 she submitted a statement that her job as a claims examiner involved handling workers' compensation claims and writing decisions. Appellant stated that after a June 11, 2012 meeting she was assigned an additional 100 cases because a coworker reported that she could not handle the number of cases assigned. She stated that other daily tasks increased as well. According to appellant, she felt helpless and was forced to leave some tasks for later. She indicated that as of October 2012 she no longer worked at home on Fridays, and on October 29, 2012 a hurricane caused the office to close for two weeks.

In addition, appellant stated that she was unable to process her correspondence tracking list and had to handle claimant inquiries after the office reopened. As part of her submission, she included a December 6, 2012 e-mail to her supervisor requesting help with her workload, as she no longer had help on certain tasks as of November 16, 2012 and had too many items that needed to be performed as soon as possible. Appellant requested that her caseload be adjusted to pre June 11, 2012 levels. She stated that on January 22, 2013 her supervisor announced a leave without pay (LWOP) project that resulted in 27 overdue claims due on March 15, 2013. In a February 8, 2013 e-mail, appellant requested permission to work an extra 1.5 hours to pay back borrowed leave. By e-mail dated February 28, 2013, her supervisor stated that there were 900 overdue correspondence tracking items and the unit had five weeks to "clean this up." On March 13, 2013 appellant indicated that she felt numbness in her left arm and leg, and felt jittery with heaviness in her chest. She stated that she was taken to a hospital emergency room and received a diagnosis of hypertension.

With respect to medical evidence, appellant submitted an April 25, 2013 report from Dr. Kushnick, stating that he had treated her for symptoms of depression and anxiety since March 14, 2013. Dr. Kushnick indicated that at the initial evaluation she reported symptoms including numbness, dizziness, anxiety, and depressed mood. He diagnosed major depressive disorder, generalized anxiety disorder, and hypertension. Dr. Kushnick stated that appellant was under constant strain and pressure to honor workload requirements and finish tasks in a timely manner, and he reported that she had been under work pressure to complete assignments for the past six to nine months. He stated that her depressed mood and anxiety worsened and made the timely meeting of multiple deadlines feel unmanageable. Dr. Kushnick stated, "While [appellant's] psychological history is significant for postpartum depression, it is my opinion that

³ Under OWCP regulations, an occupational disease or illness is a condition produced by the work environment over a period longer than a single workday or shift. 20 C.F.R. § 10.5(q).

exposure to such work factors as constant pressure to meet deadlines, multiple projects and an overwhelming workload aggravated her depression and anxiety.”

In a letter dated May 14, 2013, an employing establishment workers’ compensation coordinator provided statements from appellant’s supervisors. A former supervisor stated that there was a June 11, 2012 meeting at which a coworker asked that her work assignments be adjusted because she was covering for another coworker who was out due to surgery. The supervisor suggested that the work be evenly spilt, but appellant volunteered to take all the extra cases. According to the supervisor, appellant did not have trouble keeping up with her work that summer. A current supervisor stated that she became appellant’s supervisor in August 2012, and in December 2012 appellant asked for assistance. The current supervisor stated that appellant’s “digit range” was adjusted to one that she had prior to June 11, 2012. According to the supervisor, appellant completed her assignments in accord with procedures and on February 15, 2013 her caseload was reduced even further as a new employee was hired.

By decision dated September 17, 2013, OWCP denied the claim for compensation. It accepted that appellant volunteered to help a coworker and her caseload increased, that her office was closed for two weeks following Hurricane Sandy and she was unable to process correspondence tracking. OWCP found, however, that her decision to work in the office on Fridays was not a compensable work factor. In addition, it found that it was not established that appellant worked more than eight hours to accomplish her tasks, or that she was assigned 27 overdue LWOP claims on January 22, 2013.

Appellant requested a hearing before an OWCP hearing representative, which was held on March 18, 2014. At the hearing she stated that projects such as the LWOP project required additional time and there was no time to catch up with daily tasks.

By decision dated May 6, 2014, the hearing representative affirmed the September 17, 2013 decision. She accepted that appellant was assigned an LWOP project and there was a correspondence tracking project assigned on February 28, 2013, although it was not clear how much was assigned to her. As to a general allegation of overwork or unreasonable deadlines, the hearing representative found that the evidence of record was insufficient to establish a compensable work factor. She found no evidence that appellant had to work overtime to complete assigned tasks. In addition, the hearing representative found that the medical evidence from Dr. Kushnick did not properly discuss the compensable work factors or provide an opinion sufficient to establish the claim.

LEGAL PRECEDENT

Appellant has the burden of establishing by the weight of the reliable, probative, and substantial evidence that the condition for which she claims compensation was caused or adversely affected by factors of her federal employment.⁴ This burden includes the submission of detailed

⁴ *Pamela R. Rice*, 38 ECAB 838 (1987).

description of the employment factors or conditions, which she believes caused or adversely affected the condition or conditions for which compensation is claimed.⁵

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 illness has some connection with the employment but nevertheless does not come within the coverage of workers' compensation. These injuries occur in the course of the employment and have some kind of causal connection with it but nevertheless are not covered because they are found not to have arisen out of the employment. Disability is not covered where it results from an employee's frustration over not being permitted to work in a particular environment or to hold a particular position, or secure a promotion. On the other hand, where disability results from an employee's emotional reaction to his regular or specially assigned work duties or to a requirement imposed by the employment, the disability comes within the coverage of FECA.⁶

A reaction to situations where an employee is trying to meet his or her position requirements may be compensable as it relates to the performance of assigned work duties.⁷ But an allegation of overwork must be supported by specific factual evidence supporting the allegation.⁸

If a compensable work factor is established, the medical evidence must establish causal relationship between a diagnosed condition and a compensable work factor. The physician's opinion must be based on a complete and accurate factual and medical history, and must contain adequate medical rationale.⁹ Medical rationale is a medically sound explanation for the opinion offered.¹⁰

ANALYSIS

In the present case, appellant has established compensable work factors with respect to the performance of her work duties. First, the record indicated that in June 2012 she volunteered to take cases that had been assigned to another coworker who was on sick leave which increased her caseload by 94 cases and increased ministerial duties pertinent thereto. The office was closed for two weeks in October 2012 following Hurricane Sandy and this caused an additional backlog of work compiled by the fact that appellant was unable to print correspondence, which caused an increase in work.¹¹ Appellant did indicate that she had some additional assistance

⁵ *Roger Williams*, 52 ECAB 468 (2001); *Anna C. Leanza*, 48 ECAB 115 (1996).

⁶ *Lillian Cutler*, 28 ECAB 125 (1976).

⁷ See *C.L.*, Docket No. 14-983 (issued January 23, 2015).

⁸ *Id.*

⁹ See *L.L.*, Docket No. 14-1099 (issued October 22, 2014).

¹⁰ See *Ronald D. James, Sr.*, Docket No. 03-1700 (issued August 27, 2003); *Kenneth J. Deerman*, 34 ECAB 641 (1983) (the evidence must convince the adjudicator that the conclusion drawn is rational, sound and logical).

¹¹ It is well established that performance of assigned work duties, such as those of a claims examiner, are compensable work factors. *J.S.*, Docket No. 10-1917 (issued June 7, 2011).

through November 16, 2012, and on December 6, 2012 and that she asked and received a reduced caseload. OWCP accepted that she had been assigned an LWOP project of 27 LWOP claims and correspondence tracking projects that had abbreviated deadlines. However, appellant failed to establish that she had to work overtime to meet these work requirements, or that she was unable to meet specific work requirements or deadlines. Appellant's supervisor indicated that appellant completed work assignments in accord with procedures.

Since the record did substantiate some compensable work factors, the issue is whether the medical evidence was sufficient to establish an injury causally related to the compensable work factors. The emergency room report dated March 13, 2013 diagnoses hypertension, but does not discuss appellant's work factors.

In the April 25, 2013 report, Dr. Kushnick diagnosed major depressive disorder, generalized anxiety disorder, and hypertension, but as to causal relationship with employment, he provides neither a clear understanding of the specific compensable factors and work history, nor a rationalized medical opinion. He makes general reference to "constant pressure to meet deadlines, multiple projects, and an overwhelming workload" without providing additional detail. According to the record, appellant did have an increased caseload from June to December 2012, but then her caseload was reduced. Dr. Kushnick did not provide detail regarding his understanding of the deadlines or projects in her work.¹² As noted, there were projects regarding LWOP and correspondence tracking items, but there was no evidence that appellant was unable to meet any deadlines. Dr. Kushnick does not provide an accurate and complete history, or provide additional explanation on causal relationship with employment. He notes a preexisting postpartum depression, without clearly explaining how specific compensable work factors may have aggravated the condition, and describing the nature and extent of any aggravation.¹³

It is appellant's burden of proof to establish the claim for compensation. For the reasons noted, the Board finds that she did not meet her burden of proof in this case.

On appeal, appellant states that Dr. Kushnick provided a clear opinion on causal relationship. But as discussed above, Dr. Kushnick did not provide a rationalized medical opinion based on an accurate background.¹⁴

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.

¹² Medical reports must be based on a complete and accurate factual and medical background. *Patricia M. Mitchell*, 48 ECAB 371 (1997).

¹³ A physician must support an opinion on causal relationship between an emotional condition and work factors with medical rationale. *See L.L.*, Docket No. 14-1525 (issued July 7, 2015).

¹⁴ *Id.*

CONCLUSION

The Board finds that appellant has not established an emotional or physical injury causally related to compensable factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated May 6, 2014 is affirmed.¹⁵

Issued: September 22, 2016
Washington, DC

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

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

¹⁵ James A. Haynes, Alternate Judge, participated in the original decision but was no longer a member of the Board effective November 16, 2015.