

package without identification. He believed that two men had targeted him for not delivering the package. Appellant stopped work on December 7, 2017.

In a development letter dated December 22, 2017, OWCP requested that appellant provide additional evidence in support of his claim for FECA benefits. It advised him of the type of medical and factual evidence needed and provided a questionnaire for his completion. By separate letter of even date, OWCP similarly requested that the employing establishment provide comments from a knowledgeable supervisor on the accuracy of all statements provided by the employee, whether there were aspects of the employee's job that could be perceived as stressful, and what accommodations if any were made by the employing establishment to reduce stress. It afforded both parties 30 days to provide the requested information.

OWCP subsequently received a December 7, 2017 statement from J.G., a letter carrier, who indicated that on December 7, 2017 he was carrying and delivering city route 1852 when a grey minivan stopped and a passenger asked him if he had seen a large postal truck in the area. The passenger reported looking for a package, but he did not provide an address or describe the letter carrier who was driving the truck.

The record contains an authorization for examination and/or treatment (Form CA-16) dated December 14, 2017 from the employing establishment, which related that appellant was authorized to receive treatment for anxiety and fear. In the Form CA-20 report and Part B of an authorization for examination and/or treatment (Form CA-16), an attending physician's report dated December 7, 2017, Victor J. Nitti, Jr., Ph.D. a psychologist, noted that appellant experienced an incident on the job which caused an acute anxiety disorder. He checked a box marked "yes" indicating that appellant's diagnosis caused or aggravated by the employment activity described.

On December 18, 2017 the employing establishment controverted appellant's claim and submitted a statement from supervisor, S.B. S.B. indicated that on December 7, 2017 he called her from his mail route to inform her that he was returning to the office with an Express Mail box that he had attempted to deliver. Appellant indicated that the customer refused the package. He reported that prior to delivery two men approached him attempting to obtain the package without identification. S.B. noted that appellant immediately returned the package to the office because he did not feel comfortable driving around with the package in his truck. She indicated that at 12:40 p.m. he contacted the office to report that his postal vehicle had been vandalized and that he had seen a gentleman running from the passenger side of the postal vehicle with some packages. When S.B. arrived at the scene appellant was giving a statement to a police officer. Appellant described the perpetrator and stated that the man that vandalized the vehicle was not the same man who approached him earlier in the day. S.B. noted that appellant laughed and spoke with police officers for nearly two hours. She asserted that his statement was suspicious and he was using the incident to be moved to another office.

In a report dated December 20, 2017, Dr. Nitti indicated that appellant was involved in an incident on December 7, 2017 while delivering mail. He related that appellant recounted the history of the alleged employment incident. Dr. Nitti noted symptoms of rumination, worry, autonomic hyperarousal, loss of appetite and energy, insomnia, irritability, depressed mood, fear-of-job loss, and hypervigilance. The mental status examination revealed that appellant was alert and oriented to time, place, and person, he was neatly groomed, his speech was rapid, but fluent,

his thinking followed to logical conclusion, he was emotionally distressed, and his mood was anxious. Dr. Nitti diagnosed acute stress disorder. In a duty status report (Form CA-17) dated December 20, 2017, he diagnosed acute stress reaction and opined that appellant could not resume work.

In a statement dated December 31, 2017, appellant reiterated the facts of the incident on December 7, 2017. He indicated that there were no witnesses to the incident as he worked alone all day. Appellant reported that, for several days a week after the incident he experienced a high heart rate, low grade headache, he was jittery, he had insomnia, loss of appetite, and routinely had an upset stomach. He asserted that he felt he was being targeted because his fellow carrier was approached by an individual inquiring about a postal vehicle in the area. Appellant indicated that he did not have stress outside of his employment. He reported his hobbies included fixing up his pickup truck and working as a licensed realtor. Appellant noted receiving counseling as a young child when his mother remarried and most recently attending couples counseling with his wife. He indicated that he has never taken medication or been hospitalized for an emotional condition.

On January 4, 2018 Dr. Nitti indicated that appellant was seen for a work-related injury on or about December 7, 2017 and has been on psychiatric leave beginning December 7, 2017.

In response to OWCP's development letter, the employing establishment submitted an e-mail statement from B.S. dated January 10, 2018. B.S. asserted that appellant's statements were false as there was no proof that the individuals who broke into his vehicle were the same individuals who asked him for the package earlier that day. She confirmed that a window of his vehicle was broken and two people were seen running away from the vehicle. B.S. noted that employees were expected to deliver mail within a certain timeframe to meet customer expectations. She indicated that delivering mail was a stress-free job and appellant's stress may be attributed to his other job as a real estate agent. B.S. indicated that no accommodations were made. She advised that appellant had not been to work since the incident. B.S. indicated that he was generally able to perform his duties within the reasonable expectations of management.²

By decision dated May 16, 2018, OWCP denied appellant's emotional condition claim finding that the evidence submitted was insufficient to establish a compensable factor of employment.

On May 25, 2018 appellant requested reconsideration. In an undated statement he asserted that his physician, Dr. Nitti diagnosed acute stress disorder as a result of delivering mail on December 7, 2017. He indicated that there were no witnesses to the incident and the police report supported the vehicle break-in. Appellant noted relocating to another office.

By decision dated January 30, 2019, OWCP modified the May 16, 2018 decision, finding that appellant had established that his postal vehicle was broken into and that packages were stolen from the vehicle while he was in the performance of duty, which constituted compensable factors of employment. However, the claim remained denied because the medical evidence of record was

² A December 12, 2017 case management letter noted appellant's mental health treatment and noted that the treatment would be long term.

insufficient to establish causal relationship between the accepted employment factors and his medical condition.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation of FECA,⁴ that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁵ These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶

To establish an emotional condition in the performance of duty, a claimant must submit the following: (1) factual evidence identifying employment factors or incidents alleged to have caused or contributed to the condition; and (2) medical evidence establishing that he or she has an emotional or psychiatric disorder; (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to the emotional condition.⁷

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. In the case of *Lillian Cutler*,⁸ the Board explained that there are distinctions as to the type of employment situations giving rise to a compensable emotional condition arising under FECA. There are situations where an injury or illness has some connection with the employment, but nevertheless does not come within coverage under FECA.⁹ When an employee experiences emotional stress in carrying out his or her employment duties, and the medical evidence establishes that the disability resulted from an emotional reaction to such situation, the disability is generally regarded as due to an injury arising out of and in the course of employment. This is true when the employee's disability results from his or her emotional reaction to a special assignment or other requirement imposed by the employing establishment or by the nature of the work.¹⁰

³ *Supra* note 1.

⁴ *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *R.R.*, Docket No. 19-0048 (issued April 25, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁷ *O.G.*, Docket No. 18-0359 (issued August 7, 2019); *George H. Clark*, 56 ECAB 162 (2004).

⁸ 28 ECAB 125 (1976).

⁹ See *Robert W. Johns*, 51 ECAB 137 (1999).

¹⁰ *Lillian Cutler*, *supra* note 8.

Causal relationship is a medical question that generally requires rationalized medical opinion evidence to resolve the issue.¹¹ A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background.¹² Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factor(s).¹³

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish that his anxiety was causally related to the accepted compensable factors of his federal employment related to the December 7, 2017 employment incident.

In a report dated December 20, 2017, Dr. Nitti indicated that appellant was involved in an incident on December 7, 2017 while delivering mail. Appellant reported delivering mail on foot and discovered the passenger window of the mail truck was smashed and two males were taking packages out of his truck. He dialed 911 and the police arrived and took an incident report. Dr. Nitti noted symptoms of rumination, worry, autonomic hyperarousal, loss of appetite and energy, insomnia, irritability, depressed mood, fear-of-job loss, and hypervigilance. The mental status examination revealed that appellant was alert and oriented to time, place, and person, he was neatly groomed, his speech was rapid, but fluent, his thinking followed to logical conclusion, he was emotionally distressed, and his mood was anxious. Dr. Nitti diagnosed acute stress disorder. Also, in a duty status report (Form CA-17) dated December 20, 2017, he noted clinical findings and diagnosed acute stress reaction. Dr. Nitti advised that appellant could not resume work. However, in these reports, he offered no opinion as to a causal relationship between the accepted December 7, 2017 compensable factors and his diagnosed condition. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.¹⁴ These reports, therefore, are insufficient to establish appellant's claim.

On January 4, 2018 Dr. Nitti noted that appellant was seen for a work-related injury on or about December 7, 2017 and was on psychiatric leave beginning December 7, 2017. In an undated report from him, submitted in support of reconsideration, he diagnosed acute stress disorder related to delivering mail on December 7, 2017. The Board finds that, although Dr. Nitti supported causal relationship, he did not provide medical rationale explaining the basis of his conclusory opinion regarding causal relationship between appellant's acute stress reaction and the accepted

¹¹ *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

¹² *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

¹³ *Id.*

¹⁴ *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

December 7, 2017 compensable factors.¹⁵ Therefore, these reports are insufficient to meet appellant's burden of proof.

As appellant failed to submit evidence establishing causal relationship, the Board finds that he has not met his burden of proof.

On appeal appellant disagrees with OWCP's decision denying his claim for compensation. As noted above, part of his burden of proof includes the submission of rationalized medical opinion evidence, supporting a causal relationship between the employment incident and the diagnosed condition. The record contains no medical evidence explaining how and why appellant's anxiety was employment related, and therefore he has not met 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(a) and 20 C.F.R. §§ 10.605 through 10.607.¹⁶

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that his anxiety was causally related to the accepted December 7, 2017 compensable factors.

¹⁵ See *T.M.*, Docket No. 08-0975 (issued February 6, 2009) (a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

¹⁶ The record contains a Form CA-16 signed by the employing establishment official on December 14, 2017 for treatment with Dr. Nitti. When the employing establishment properly executes a Form CA-16 which authorizes medical treatment as a result of an employee's claim for an employment-related injury, the CA-16 form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. The period for which treatment is authorized by a Form CA-16 is limited to 60 days from the date of issuance, unless terminated earlier by OWCP. See 20 C.F.R. § 10.300(c); *N.M.*, Docket No. 17-1655 (issued January 24, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003). The record is silent as to whether OWCP paid for the cost of appellant's examination or treatment for the period noted on the form.

ORDER

IT IS HEREBY ORDERED THAT the January 30, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 18, 2019
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board