

ISSUE

The issue is whether appellant has met her burden of proof to establish that she developed an emotional condition in the performance of duty.

FACTUAL HISTORY

This case has previously been before the Board.³ The facts and circumstances of the case as set forth in the prior decision are incorporated herein by reference. The relevant facts are as follows.

On September 26, 2012 appellant, then a 41-year-old library technician, filed an occupational disease claim (Form CA-2) alleging that she developed depression and anxiety as a result of her federal employment duties. She stated that she worked as a library technician for seven years. Approximately three years prior appellant had been given a substantial amount of increased responsibility for which she was not properly trained to complete. In order to complete her assigned duties, she was required to work long hours. Appellant first became aware of her condition on November 1, 2011 and of its relationship to her federal employment on August 16, 2012.

In an August 20, 2012 narrative statement, appellant reported that her responsibilities increased when the supervisory librarian had retired three years prior and the only other librarian in the department worked part time. As a result, the library technicians were required to perform the duties of a librarian while also managing the library. Appellant provided a description of the additional employment duties that she was required to perform and an official position description for a library technician. She highlighted portions of the position description which noted that responsibilities included “basic reference services,” “daily maintenance of the library,” and “performing a range of library support tasks.” Appellant further highlighted portions noting that she was required to “assist the medical librarian” in providing interlibrary loan services and was “under the daily supervision of the medical librarian (when necessary the lead librarian).”

In a November 13, 2012 narrative report, Samuel A. Bobrow, Ph.D., a clinical psychologist, reported that he evaluated appellant on August 29, 2012. Appellant informed him that she stopped working for the employing establishment on March 28, 2012 due to severe work-related stress. Dr. Bobrow reiterated appellant’s history regarding appellant’s increased employment duties. He reported that she was previously diagnosed with general anxiety disorder and moderate major depression in 2007 and 2008. On June 9, 2011 appellant had sought further psychiatric treatment due to stress from job-related changes and because her husband had recently lost his job. She was diagnosed with general anxiety disorder and severe major depression. Dr. Bobrow noted that appellant began to feel incompetent because she was asked to do tasks she was not trained to complete. Appellant’s anxiety and depression were exacerbated from being “overworked and ill prepared.”

By decision dated November 27, 2012, OWCP denied appellant’s claim finding that she failed to establish fact of injury because the evidence of record did not support that the occupational

³ Docket No.14-1874 (issued February 26, 2015).

exposure occurred as alleged. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

In a letter dated December 4, 2012, appellant, through counsel, requested a hearing before a representative of OWCP's Branch of Hearings and Review. Counsel subsequently converted the request to a review of the written record.

By decision dated May 14, 2013, an OWCP hearing representative affirmed the November 27, 2012 OWCP decision finding that appellant failed to establish fact of injury because he could not determine what, if any, employment factors she experienced in the performance of her federal employment duties.

On July 29, 2013 counsel requested reconsideration. He resubmitted appellant's August 20, 2012 narrative statement and Dr. Bobrow's November 13, 2012 report.

By decision dated June 11, 2014, OWCP denied modification of the May 14, 2013 decision finding that appellant failed to establish fact of injury because the evidence of record did not support that the occupational exposure occurred as alleged. The senior claims examiner noted that, due to OWCP's delay in processing the request for reconsideration, it would conduct a merit review of the claim in order to preserve her appeal rights. Appellant, through counsel, appealed to the Board.

By decision dated February 26, 2015, the Board set aside OWCP's June 11, 2014 decision denying appellant's emotional condition claim. The Board found that while OWCP's decision purported to have conducted a merit review of the claim, it had instead conducted a nonmerit review. The Board further found that OWCP failed to properly develop the evidence by directly requesting a statement from appellant's supervisor addressing allegations of an increased workload outside the scope of her employment position description. The Board remanded the case for OWCP to properly develop the evidence of record and issue an appropriate merit decision.

OWCP thereafter received reports dated March 22 through May 2, 2015 from Linda Esposito, Ph.D., a clinical psychologist.

By letter dated April 9, 2015, OWCP requested that the employing establishment provide further information pertaining to appellant's emotional condition claim and the accuracy of her allegations. A claim development questionnaire was provided by OWCP for completion.

By letter dated April 24, 2015, J.P., appellant's supervisor, responded to OWCP's questionnaire and allegations surrounding appellant's emotional condition claim. He reported that appellant's workplace at Lyons Library was very quiet and the workload was light, even when the librarian was part time. The only duties appellant had were to sort mail, check in and shelve journals once a week, assist patrons with use of library resources, and fill interlibrary loan requests which came in very rarely. She was also responsible for checking in and out monographs and AV material. J.P. noted that if requests came in from medical center staff for articles, it was appellant's job to put in computer requests from other libraries and if requests came in from medical staff for searches, it was her job to refer them to the librarian. He reported that no accommodations were made to reduce her stress as she did not share that she was experiencing stress from her employment. J.P. reported that appellant's duties did not differ from that of her official position

description. He noted that from the November 1, 2011 date of injury, for a time, the librarian was part time for three days a week, working at East Orange Library for two days a week and at Lyons Library for one day a week. While at East Orange Library, the librarian was always available to appellant for questions or assistance by telephone or e-mail. For the two days the librarian was not in during the week, the library technician at East Orange Library was available to assist appellant, or the librarian could be contacted at home. He reported that this was made clear to appellant at the time. J.P. stated that appellant was able to perform her required duties in accordance with her expectations.

J.P. explained that appellant was well trained in all areas of her employment duties which entailed sorting mail, checking in and shelving journals, filling and requesting interlibrary loans, checking in and out materials for circulation, and assisting with ready reference searching. He stated that she was not required to perform duties outside of the scope of a library technician at any time. J.P. further reported that the part-time librarian was always available to assist with any problems, even on her days off. He reported that appellant falsely alleged that she served as a professional information specialist; developed and maintained a collection of monographic volumes, subscriptions of serial titles, and software programs; was responsible for reference services, bibliographic instruction, marketing, and purchasing; and providing recreational reading materials. J.P. reported that at no time was she expected or called upon to serve as a professional information specialist answering in depth reference questions for staff, however, she performed this duty by her own volition with no formal training in research, and therefore did not provide quality search results. Appellant at no time developed or maintained a collection of monographic volumes or subscriptions of serial titles. This was proven by the fact that she never placed a single order for anything and was never issued a government charge card, or arranged for contracts for serial title subscriptions. J.P. noted that recreational reading for patients included magazines that were ordered by the librarian along with medical library journals that were included in the serials subscription contract, which included books that were donated by the public and never ordered. He reported that bibliographic instruction was essentially showing patrons how to use the library and its resources and that library technicians always performed this duty to a certain extent. J.P. explained that the librarians taught actual classes and at no time did the claimant teach classes, nor did she ever market library resources which entailed creating e-mails or posters, or teaching classes on the resources. He noted that appellant never made purchases as she did not have the authority or training to do so. J.P. concluded that most of appellant's statements were pulled from the official position descriptions of a librarian or a supervisory librarian and were never her duties at any time.

By decision dated July 9, 2015, OWCP denied appellant's claim finding that she failed to establish fact of injury because the evidence submitted did not support that the events occurred as alleged. It found that there was no evidence or witness statements submitted to support her allegations that the events occurred in the manner that she alleged. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On July 14, 2015 appellant, through counsel, requested an oral hearing before an OWCP hearing representative.

In a November 4, 2015 narrative statement, appellant described in detail the employment duties alleged to have caused her emotional condition. She explained that she began working as a library technician in the Mental Health Library at Lyons on April 30, 2005. At that time, appellant worked under the direction of J.D., the supervisory librarian at Lyons Library. She explained that

J.D. was stationed at the Lyons Library as a supervisory librarian and V.L. was concurrently hired for the medical librarian position at the East Orange Library as there was no librarian at that site. Appellant reported that J.D. retired on June 30, 2009, leaving her as the sole person working at the Lyons Library. As a result, she became overworked as she was responsible for all of the daily functions of the library which J.D. used to handle. Appellant noted that the only librarian on staff was V.L. at the East Orange Library and she was approved by J.P., to work part time Monday, Tuesday, and Wednesday from 8:00 a.m. to 4:30 p.m. effective October 20 through December 31, 2010. She reported that V.L. was on full-time leave beginning January 1, 2011 and returned in May 2011 on her prior part-time schedule, three days a week, but she had not returned to full-time work until September 2, 2012. Appellant reported that V.L. was supposed to come to Lyons Library at least once a week to help her since she was working there alone, but rarely came in, and it was never enforced. She further reported that two educators left in May 2010, leaving the positions vacant in their department. As a result, appellant had to take on added role of a TMS administrator and was required to train new hires. She reported that the combination of J.D. retiring in 2009, V.L. working part time in 2010 and on full-time leave from January to May 2011, and the departure of two educators in 2010 leaving those positions vacant caused a change and dramatically increased her employment duties resulting in overwork.

Appellant further reported that she was asked to be the timekeeper for library services and human resources using VISTA, even though the previous library technician prior to her did not have this duty. She noted that because she had knowledge of how to do timecards, she was asked to post the timecards for all the library staff and some of the human resources staff, which was done daily. Appellant also had to be the backup timekeeper if another timekeeper was out, leaving her responsible for that department's timecards. She explained that this was very time consuming and stressful because there were time constraints as to when she had to complete the timecards and signed off by the supervisor. Appellant reported spending an extreme amount of time trying to track down employees and supervisors to make corrections to the timecards, fix mistakes, and that she had to telephone and e-mail several employees to get them to put in their VISTA leave requests. This put a lot of pressure on her to complete these tasks as she still had her regular work assignments to complete.⁴

Appellant explained that along with her regular work assignment, which took up much of her day, she had these extra duties and was required to manage the library by herself. She was so overwhelmed with the workload that she requested J.P. approve virtual private network (VPN) home access so that she could work from home after hours to get a jump start on her duties for the following day, particularly with the timecards which took a great deal of time. Appellant reported that she was never told she could contact V.L. at home on the days V.L. was not working.

In support of her claim, appellant submitted e-mails to J.P. dated July 12, 2010 through September 13, 2011 requesting compensatory (comp) time because she had to stay late to complete her work, including receiving book donations, helping patrons search for articles, and catching up

⁴ Appellant further alleged that J.P. requested medical books from the patient education resources center (PERC) be moved to the Lyons Library, leaving appellant with the added responsibility of making space in the library for these books, ordering more shelves, and weeding through the journal collections. In a September 15, 2010 e-mail, appellant requested comp time due to having to make room for all of the medical books that were being sent from PERC, which required her to move journals and books in the library and empty shelves prior to the delivery of the shipment later that week.

on her general duties. In e-mail responses, J.P. affirmed appellant's comp time requests. In an April 1, 2011 e-mail, appellant informed J.P. of the issues she was facing regarding how to handle certain employees' timecards. She reported that handling the timecards was a big responsibility and very time consuming when also trying to run the library by herself. Appellant asked if someone else in the service could handle the timecards. She further noted that she would appreciate if the staff would cooperate with her in dealing with these timecards and leave usage, describing the various issues she was having with the staff and management of the timecards.

A hearing was held on November 6, 2015 where appellant testified in support of her emotional condition claim.

By decision dated March 2, 2016, an OWCP hearing representative set aside and vacated the July 9, 2015 decision. He found that OWCP failed to provide the employing establishment with appellant's detailed November 4, 2015 narrative statement for review and comment regarding the allegations she had made in regard to her work environment. The hearing representative remanded the case for additional development followed by issuance of a *de novo* decision.

On September 2, 2016 OWCP requested that the employing establishment review and then comment on appellant's allegations surrounding her employment-related emotional condition. It provided her November 4, 2015 narrative statement and e-mail correspondence for review.

In a letter dated September 28, 2016, the employing establishment contested appellant's allegations regarding her alleged employment duties. It reported that she had failed to inform OWCP that she had prior timekeeper experience from 1998 to 2005 in dietetics, a very large department that employed more than 80 employees compared to education which only employed 16 employees. The employing establishment further reported that at no time did J.P. pressure or require appellant to work late. Rather, appellant would work late and then subsequently request comp time off from her supervisor. The employing establishment noted that she only had preapproval from her supervisor on three occasions. It further reported that appellant did not work comp time in 2009, only worked 23.75 hours of comp time in 2010, worked 15 minutes overtime and no comp time in 2011, and did not work overtime or comp time in 2012. The employing establishment noted that 90 percent of the time in 2010, she did not work the full pay period due to sick or annual leave. It concluded that appellant's emotional stress in carrying out her duties was self-generated. In support of its assertions, the employing establishment provided copies of her timesheets from 2010 to 2012, as well as J.P.'s September 26, 2016 statement.

In a September 26, 2016 statement, J.P. provided V.L.'s responses to appellant's allegations surrounding her employment-related duties. Appellant had previously made the allegation that V.L. was supposed to come to the Lyons Library at least once a week to help her since she was there alone, but rarely came and it was never enforced by J.P. V.L. responded that East Orange Library got a lot more traffic than Lyons Library and being that the librarian was part time at one point, she needed to make sure everything at East Orange was addressed first, including searches and cataloguing. With regard to appellant having to supervise CWT workers, V.L. reported that because appellant was at Lyons Library each day, she was to sign off on the timesheets. She further reported that at no time does a library technician have supervisory responsibility over a CWT worker and overseeing what they do is part of the position description. Appellant reported that she had to train and orient all new mental health hires. V.L. reported that Mental Health sends new hires to the library computers to complete training in self-directed online course and that

appellant assisted by helping them access their training modules. With regard to appellant's allegation that she had to help the librarian with the new cataloging system by manually inputting all data in the computer system for the Lyons Library while V.L. catalogued at East Orange Library, she reported that both library technicians assisted in uploading records to the new circulation system which required manual input. She explained that the librarian requested assistance as this endeavor would have taken much longer without help. The records were split between the three library staff by title and not location, and appellant did not complete all of the records assigned to her.

J.P. addressed appellant's allegations reiterating that she was never required or pressured to work late. He noted that all of the work she needed to complete when requesting comp time was not urgent. J.P. noted that on one occasion appellant taught a class on Veteran's awareness, but was not required to do so and was very enthusiastic about it. He further reported that timekeeping was an extra duty assigned at the employing establishment which took less than 10 minutes each morning, and perhaps a little longer on pay certification days once every two weeks. J.P. reported that appellant enjoyed doing it as it was not time consuming and she was compensated for it. He further stated that at no time was she required to conduct meetings.

By decision dated November 21, 2016, OWCP denied appellant's claim finding that she failed to establish fact of injury because the evidence submitted did not support that the events occurred as alleged. Therefore, appellant failed to establish an injury as defined under FECA.

On November 29, 2016 appellant, through counsel, requested an oral hearing before an OWCP hearing representative. A hearing was held on March 2, 2017 where counsel argued that fact of injury had been established and that the medical evidence should be reviewed.

By decision dated April 11, 2017, an OWCP hearing representative affirmed the November 21, 2016 decision finding that the evidence of record failed to establish a compensable factor of employment incurred in the performance of her federal employment duties.

LEGAL PRECEDENT

A claimant has the burden of proof to establish 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 factors of his or her federal employment.⁵ To establish that he or she sustained an emotional condition in the performance of duty, a claimant must submit: (1) factual evidence identifying employment factors or incidents alleged to have caused or contributed to his or her condition; (2) medical evidence establishing that he or she has an emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to his or her emotional condition.⁶

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

⁵ See *Pamela R. Rice*, 38 ECAB 830 (1987).

⁶ See *S.J.*, Docket No. 12-1512 (issued February 12, 2013).

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.⁷ 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.⁸

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.⁹ If a claimant does implicate a factor of employment, OWCP should then determine whether the evidence of record substantiates that factor.¹⁰ 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.¹¹

ANALYSIS

The Board finds that this case is not in posture for decision.

Appellant attributes her emotional condition to the stress of carrying out her normal daily workload in her regular or specially assigned duties under *Cutler*.¹² The Board has held that conditions related to stress resulting from situations in which a claimant is trying to meet his or her position requirements are compensable.¹³ Appellant explained that she was hired as a library technician at Lyons Library and worked for J.D., the supervisory librarian, until he retired in June 2009. Thereafter, the supervisory position remained vacant with V.L. as the only librarian, located at East Orange Library. Appellant noted that V.L. began working part time in October 2010 for three days a week, and was on full-time leave from January to May 2011. She reported that two educators also left in 2010 whose positions remained vacant, increasing her workload. Appellant stated that with no active librarian on site and staff shortages, she was responsible for running the Lyons Library without adequate training or help. She further reported that the increased workload, much of which was outside the scope of her employment, caused her a great deal of stress.

⁷ *Lillian Cutler*, 28 ECAB 125 (1976).

⁸ *Gregorio E. Conde*, 52 ECAB 410 (2001).

⁹ *D.L.*, 58 ECAB 217 (2006); *Jeral R. Gray*, 57 ECAB 611 (2006).

¹⁰ *K.W.*, 59 ECAB 271 (2007); *David C. Lindsey, Jr.*, 56 ECAB 263 (2005).

¹¹ *Robert Breeden*, 57 ECAB 622 (2006).

¹² *Supra* note 7.

¹³ *Richard H. Ruth*, 49 ECAB 503 (1998).

The Board has held that conditions related to stress resulting from situations in which an employee is trying to meet his or her position requirements are compensable.¹⁴ The record, consisting of appellant's statements, e-mail correspondence, and statements of her supervisor, establishes that she had an increased workload, in part, due to understaffing and hiring delays within the employing establishment. J.P., appellant's supervisor, did not dispute that these staff shortages occurred. Rather, he argued that appellant's workload was not overly stressful and she was never required to stay late. The Board notes that the statements of J.P. and V.L. corroborate appellant's assertions regarding position vacancies and part-time schedules. Beginning June 2009, appellant worked as a library technician with no librarian on site at the Lyons Library. V.L. worked part time beginning October 2010 which entailed coming in once a week to the Lyons Library. Appellant alleged that she rarely came in and V.L. admitted that East Orange Library received a lot more traffic and she needed to make sure everything at East Orange was addressed first, including searches and cataloging. While J.P. reported that appellant could contact V.L. on her days off, this does not negate that appellant was left with the day-to-day management of the library without adequate support, including having to address on the spot requests or questions by patrons seeking information from the present staff at Lyons Library. With a vacant supervisory librarian position at Lyons Library since 2009, and a part-time librarian who reported that her priority was to address the needs of East Orange Library first, the record establishes that appellant's employment duties increased from her prior workload such that she established a compensable factor of employment of overwork.¹⁵

The statements of J.P. and V.L. further establish some of appellant's more specific allegations with respect to her additional duties as a result of staff shortages. Appellant reported that she was required to perform the duties of a librarian by manually uploading records into the new circulation system for Lyons Library while V.L. completed the task for East Orange Library. While V.L. argued that the other library technician also helped in this task, she acknowledged that the library technicians assisted in manually uploading records because the librarian requested assistance since it would have taken much longer without help.

The Board finds that appellant's workload further increased with the requirement that she take over timekeeping duties and other aspects typically handled by a librarian who was no longer present on location, is a condition of her specially assigned duties and is, therefore, to be considered a compensable factor of employment.¹⁶ Appellant reported that she was required to conduct timekeeping for the staff in her department which was outside of her described employment duties. She alleged that this additional duty caused her a great deal of stress and made it difficult to complete her regularly-assigned duties in a timely manner. The Board notes that in his September 26, 2016 statement, J.P. affirmed that timekeeping was an extra duty assigned in the employing establishment. However, J.P. reported that it did not take long and appellant enjoyed doing it. The Board finds that the evidence does not support J.P.'s assertion that timekeeping was enjoyable and non-time consuming, as the record reflects that on April 1, 2011

¹⁴ R.A., Docket No. 14-1438 (issued September 16, 2015).

¹⁵ *Georgia F. Kennedy*, 35 ECAB 1151, 1155 (1984) (the Board, citing the principles of *Cutler*, listed employment factors which would be covered under FECA, including an unusually heavy workload and imposition of unreasonable deadlines).

¹⁶ *Id.*

appellant sent an e-mail to J.P. regarding the issues she was facing with the management of timecards. Appellant reported that undertaking timecards was a big responsibility and very time consuming when also trying to run the library by herself, asking if someone else in the service could handle this task. She noted that she would appreciate if the staff would cooperate with her in dealing with timecard and leave usage, describing the various issues she was having with the staff and difficulty in completing the task. The employing establishment reported that appellant had timekeeping experience from her prior employment. While appellant may have had prior experience, this does not mean that this extra duty assigned to her outside of the scope of her employment did not cause her stress, in addition to her regularly assigned employment duties. Therefore, the Board finds that her reaction to the additional duty of timekeeping is a compensable factor of employment.¹⁷ The employing establishment also argues that appellant only took 23.75 hours of comp time in 2010 as evidence that she did not have a stressful workload, and that her work was not urgent. That appellant was fully able to complete her tasks in a timely matter or that the work was not urgent does not mean the staff shortages and increased workload caused her no stress.¹⁸ That remains a medical question.

As the employing establishment has not adequately disputed the allegations addressed above and appellant has substantiated her allegations with sufficient evidence, the Board accepts appellant's allegations regarding her increased workload as factual in accordance with OWCP's regulations.¹⁹ The Board finds that appellant has submitted substantial evidence of her heavy workload and lack of adequate staff to complete her regular or specially assigned duties and as such, has established a compensable work factor under *Cutler*.²⁰ It is unnecessary for purposes of compensability for appellant to establish that she had a greater workload than others, only that the evidence establishes that her disability arises from her inability to perform the job requirements of her position as a library technician.²¹

As OWCP found that there were no compensable employment factors, it did not analyze or develop the medical evidence. Thus, the Board will set aside OWCP's April 11, 2017 decision

¹⁷ *J.T.*, Docket No. 11-0233 (issued January 25, 2012).

¹⁸ *R.A.*, Docket No. 14-1438 (issued September 16, 2015).

¹⁹ See *Alice F. Harrell*, 53 ECAB 713 (2002).

²⁰ *Trudy A. Scott*, 52 ECAB 309 (2001) (where appellant alleged that she suffered from an emotional breakdown when she was required to take on extra duties, such as staff scheduling, when a supervisor left her job. The employing establishment did not dispute that her duties changed or that there was a staff shortage, but denied that appellant's workload was overly stressful. The Board held that conditions related to stress resulting from situations in which an employee is trying to meet his or her position requirements are compensable. The record, consisting of appellant's performance evaluation and the affidavit of a witness, established that she had a heavy and demanding workload, in part due to understaffing and hiring delays with the employing establishment. The Board found that her increased workload, with the requirement that she take over scheduling duties of a departed employee, was a condition of her specially assigned duties and was to be considered a compensable work factor); *William J. Blankenship*, Docket No. 97-1071 (issued January 7, 2000) (where the Board found that appellant established a compensable work factor from his heavy workload when he was assigned additional duties, in addition to his regular duties, after a coworker resigned. Appellant had the sole responsibility to create a criminal enforcement program which required him to learn new computer skills and was given more regions to cover with additional laws to enforce).

²¹ See *Richard H. Ruth*, *supra* note 13 (where the Board held that emotional reactions to situations in which an employee is trying to meet his or her position requirements, when supported by sufficient evidence, are compensable).

and remand the case for consideration of the medical evidence with regard to whether appellant has established an emotional condition in the performance of duty causally related to compensable factors of her federal employment.²² After further development as deemed necessary, OWCP shall issue a *de novo* decision on appellant's emotional condition claim.

CONCLUSION

The Board finds that this case is not in posture for a decision.

ORDER

IT IS HEREBY ORDERED THAT the April 11, 2017 decision of the Office of Workers' Compensation Programs is set aside. The case is remanded for further proceedings consistent with this opinion.

Issued: September 25, 2019
Washington, DC

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

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

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

²² *T.F.*, Docket No. 12-0439 (issued August 20, 2012).