

**United States Department of Labor
Employees' Compensation Appeals Board**

U.B., Appellant)	
)	
and)	Docket No. 18-0691
)	Issued: March 12, 2020
U.S. POSTAL SERVICE, POST OFFICE,)	
Elizabeth, NJ, Employer)	
)	

Appearances:
Thomas R. Uliase, Esq., for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On February 13, 2018 appellant, through counsel, filed a timely appeal from a December 1, 2017 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; see also 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² 5 U.S.C. § 8101 *et seq.*

ISSUE

The issue is whether appellant has met her burden of proof to establish a stress-related condition causally related to the accepted April 10, 2013 employment incident.

FACTUAL HISTORY

On April 12, 2013 appellant, a 54-year-old window/distribution clerk, filed a traumatic injury claim (Form CA-1) alleging that on April 10, 2013 she sustained high blood pressure, anxiety attack, sleeplessness, and bad headaches due to an incident that took place at the employing establishment's front window while she was in the performance of duty. She stopped work on April 13, 2013.

In an April 12, 2013 statement, appellant indicated that she was working on April 10, 2013 when a customer entered and gave her a small white letter envelope and asked her to weigh it. When she grabbed the envelope from the change tray, a white granulate substance spilled from the envelope. Appellant noted that she panicked and questioned the customer about the nature of the substance. She advised that the customer indicated that it was only sugar and that she then weighed the envelope and gave it back to the customer. Appellant was very upset about the situation and noticed that there were no addresses for mailing or return on the envelope, which was unsealed.

In an April 12, 2013 e-mail, a maintenance manager advised that, at approximately 3:19 p.m. on April 10, 2013, the white substance at issue was tested and confirmed to be sugar.

In an April 16, 2013 letter, an employing establishment official controverted appellant's claim. He asserted that appellant's reaction to the April 10, 2013 incident was self-generated as the substance was identified as sugar soon after the incident occurred. In another April 10, 2013 letter, appellant's immediate supervisor indicated that a customer presented appellant the envelope in question at approximately 1:30 p.m. on April 10, 2013 and she posited that appellant's anxiety should have dissipated soon after when the white substance was determined through testing to have been sugar. She further contended that appellant suffered from high blood pressure and anxiety prior to April 10, 2013.

Appellant submitted an April 12, 2013 note from Dr. Tasneem J. Rashid, Board-certified in internal medicine and hematology/oncology, who indicated that appellant was seen for a work-related incident on April 10, 2013 "[l]eading to anxiety attack/accelerated blood pressure." Dr. Rashid advised that appellant could not perform her normal work duties. In another April 12, 2013 note, she indicated that she referred appellant for a psychiatric appointment.³ In an April 19, 2013 development letter, OWCP advised appellant of the deficiencies of her claim and afforded her 30 days to submit additional evidence and respond to its inquiries. It requested that she answer an enclosed questionnaire regarding the details of the claimed April 10, 2013 incident and submit a physician's opinion supported by a medical explanation regarding the cause of her claimed

³ Appellant also submitted an authorization for examination and/or treatment report (Form CA-16), dated April 16, 2013, which listed the date of injury as April 10, 2013.

conditions. OWCP did not receive any additional evidence from appellant within the afforded period.

By decision dated May 21, 2013, OWCP accepted the April 10, 2013 incident regarding the white substance (later identified as sugar) as a compensable factor of appellant's federal employment. However, it denied the claim finding that the medical evidence of record was insufficient to establish a medical diagnosis in connection with the April 10, 2013 employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

OWCP subsequently received a May 16, 2013 statement in which she provided further details regarding the April 10, 2013 employment incident and discussed her medical treatment.

Appellant also submitted an April 18, 2013 note from Dr. Ronald J. Karpf, a clinical psychologist, who indicated that appellant could not perform her job duties and that she had a diagnosis of post-traumatic stress disorder. On May 2, 2013 Dr. Karpf advised that he was treating appellant for post-traumatic stress disorder "for a work incident on [April 10, 2013]" and he noted continuing disability from work. In a May 16, 2013 note, he advised that appellant could not work for the next three weeks due to this condition.⁴

On June 7, 2013 appellant requested reconsideration of the May 21, 2013 decision. In support thereof, she submitted a May 18, 2013 report, wherein Dr. Karpf detailed her history. Dr. Karpf noted that appellant reported having work problems since April 10, 2013 when she was working at her job and an envelope with white powder fell out. Appellant advised that she was very panicky about this incident and noted that, although the white powder eventually turned out to not be poisonous gas, she did not know about this until hours later. Dr. Karpf noted that she reported to him that she had flashback memories about the incident, experienced hypervigilance about similar issues, and felt that she was unable to do her daily activities because of her anxiety and her depression. He diagnosed major depressive disorder, recurrent, severe, with psychotic features, post-traumatic stress disorder, chronic, under the Axis I category, and hypertension under the Axis II category. Dr. Karpf diagnosed problems related to the social environment (difficulty with performing work), occupational problems (threat of job loss and stressful work conditions), and economic problems (inadequate finances), under the Axis IV category (psychosocial/environmental problems affecting the Axis I diagnosis).

By decision dated August 28, 2013, OWCP affirmed its May 21, 2013 decision as modified to reflect that appellant had established a diagnosis. However, it denied the claim finding that the medical evidence of record was insufficient to establish a causal relationship between appellant's diagnosed conditions and the accepted April 10, 2013 employment incident.

⁴ Appellant also submitted a February 19, 2010 report from Dr. Harish Malhotra, Board-certified in hematology/oncology, who diagnosed adjustment disorder with anxiety secondary to a December 18, 2009 incident at her job. In the history portion of the report, Dr. Malhotra discussed appellant's reporting of her December 18, 2009 interaction with a supervisor. In an April 29, 2013 note, Dr. Rashid advised that appellant was unable to perform her work duties due to the April 10, 2013 work-related incident "causing traumatic disorder."

On August 6, 2014 appellant, through counsel, requested reconsideration of the August 28, 2013 decision.

In several July 29, 2014 statements, appellant provided further details regarding the April 10, 2013 employment incident.

In an August 18, 2014 note, Dr. Rashid certified that appellant had elevated blood pressure related to the stress created by the April 10, 2013 incident.

On September 20, 2014 Dr. Karpf noted that appellant reported having more problems since April 10, 2013 of an unspecified nature and she again related the facts of the April 10, 2013 incident involving the white powder. Appellant still felt that she was unable to do her daily activities because of her anxiety and depression. Dr. Karpf indicated that, during his evaluation, appellant was preoccupied with the April 10, 2013 incident and he noted that she reported having visual hallucinations of the incident where she saw the shadows of people and animals. In the treatment portion of the report, he noted, "I state to a reasonable degree of psychological certainty that [appellant's] emotional condition, which is depression and post-traumatic stress disorder, was caused by her work injury. Before the work injury the patient was not in psychotherapy and was functioning well in terms of her activities of daily living."⁵ Dr. Karpf diagnosed major depressive disorder, recurrent, with psychotic features, and post-traumatic stress disorder. He opined that appellant's emotional problems would continue over the next 12 months if she received psychotherapy and medication, but would not remit on their own without treatment.

By decision dated November 6, 2014, OWCP denied modification of its August 28, 2013 decision.

On November 17, 2014 appellant, through counsel, requested reconsideration of the November 6, 2014 decision and resubmitted a copy of the September 20, 2014 report from Dr. Karpf.

By decision dated December 1, 2017, OWCP denied modification of its November 6, 2014 decision.

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.⁶ 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

⁵ At the top of his report, Dr. Karpf listed the date of injury as April 10, 2013.

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

his or her frustration from not being permitted to work in a particular environment, or to hold a particular position.⁷

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 employment factors.⁸ This burden includes the submission of a detailed description of the employment factors or conditions which he or she 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.⁹

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.¹⁰ 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, it must base its decision on an analysis of the medical evidence.¹¹

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a stress-related condition causally related to the accepted April 10, 2013 employment incident.

In an April 12, 2013 report, Dr. Rashid indicated that appellant was seen for a work-related incident on April 10, 2013 “[l]eading to anxiety attack/accelerated blood pressure.” In an August 18, 2014 report, she certified that appellant had elevated blood pressure related to the stress created by the incident on April 10, 2013. In an April 29, 2013 report, Dr. Rashid advised that appellant was unable to perform her work duties due to the April 10, 2013 work-related incident “causing traumatic disorder.” In a May 2, 2013 report, Dr. Karpf advised that he was treating appellant for post-traumatic stress disorder for an April 10, 2013 work incident and he noted continuing disability from work. In a September 20, 2014 report, he indicated that, during his evaluation, appellant was preoccupied with the April 10, 2013 incident and he advised that she reported having visual hallucinations of the incident where she saw the shadows of people and animals. Dr. Karpf noted, “I state to a reasonable degree of psychological certainty that [appellant’s] emotional condition, which is depression and post-traumatic stress disorder, was caused by her work injury. Before the work injury the patient was not in psychotherapy and was

⁷ *A.E.*, Docket No. 18-1587 (issued March 13, 2019); *Gregorio E. Conde*, 52 ECAB 410 (2001).

⁸ *B.S.*, Docket No. 19-0378 (issued July 10, 2019); *Pamela R. Rice*, 38 ECAB 838, 841 (1987).

⁹ *P.B.*, Docket No. 17-1912 (issued December 28, 2018); *Effie O. Morris*, 44 ECAB 470, 473-74 (1993).

¹⁰ *See O.G.*, Docket No. 18-0359 (issued August 7, 2019); *Norma L. Blank*, 43 ECAB 384, 389-90 (1992).

¹¹ *Id.*

functioning well in terms of her activities of daily living.” However, such generalized statements do not establish causal relationship because they merely repeat appellant’s allegations and are unsupported by adequate medical rationale explaining how the accepted April 10, 2013 employment incident actually caused a diagnosed medical condition.¹² The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how an employment activity could have caused or aggravated a medical condition.¹³ Thus, these reports are of limited probative value and insufficient to establish that appellant sustained an employment-related injury on April 10, 2013.

Appellant also submitted a February 19, 2010 report from Dr. Malhotra, a second April 12, 2013 report from Dr. Rashid, and April 18, May 16, and May 18, 2013 reports from Dr. Karpf. However, these reports are of no probative value on the underlying issue of this case because they did not relate appellant’s diagnosed conditions to the April 10, 2013 employment incident.¹⁴ The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee’s condition or disability is of no probative value on the issue of causal relationship.¹⁵ Therefore, these reports are insufficient to establish appellant’s claim.¹⁶

On appeal counsel argues that the reports of Dr. Karpf establish causal relationship between appellant’s diagnosed conditions and the accepted April 10, 2013 employment factor. However, as explained above, these reports lack adequate medical rationale on causal relationship and are insufficient to meet appellant’s burden of proof.

As appellant has not submitted rationalized medical evidence to establish her claim that she sustained a stress-related condition causally related to the April 10, 2013 employment incident, she has not met her burden of proof.¹⁷

¹² See *J.B.*, Docket No. 18-1006 (issued May 3, 2019).

¹³ See *Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

¹⁴ In his February 19, 2010 report, Dr. Malhotra related the conditions he diagnosed to a December 18, 2009 incident at work which has not been accepted in connection with the present claim. On May 18, 2013 Dr. Karpf related the conditions he diagnosed to, *inter alia*, difficulty with performing work, threat of job loss, and “stressful” work conditions. None of these referenced factors, described in the most general terms, has been accepted as an employment factor.

¹⁵ See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁶ *Id.*

¹⁷ The case record contains a Form CA-16 dated April 16, 2013. A properly completed Form CA-16 for authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The 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. 20 C.F.R. § 10.300(c); *P.R.*, Docket No. 18-0737 (issued November 2, 2018); *N.M.*, Docket No. 17-1655 (issued January 24, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).

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 has not met her burden of proof to establish a stress-related condition causally related to the accepted April 10, 2013 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the December 1, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 12, 2020
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

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