United States Department of Labor
Employees' Compensation Appeals Board

R.M., Appellant	)	
and	)	**Docket No. 19-1088**
	)	**Issued: November 17, 2020**
DEPARTMENT OF VETERANS AFFAIRS, VETERANS BENEFITS ADMINISTRATION, Nashville, TN, Employer	)	

Appearances:
Appellant, pro se
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 April 15, 2019 appellant filed a timely appeal from a November 21, 2018 merit decision and a March 28, 2019 nonmerit decision of the Office of Workers' Compensation Programs (OWCP).[1] Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[3]

[1] Appellant timely requested oral argument pursuant to the Board's *Rules of Procedure*. 20 C.F.R. § 501.5(b). By order dated November 12, 2020, the Board exercised its discretion and denied the request, finding that the arguments on appeal could adequately be addressed based on the case record. *Order Denying Request for Oral Argument*, Docket No. 19-1088 (issued November 12, 2020).

[2] 5 U.S.C. § 8101 *et seq.*

[3] The Board notes that, following the November 21, 2018 decision, OWCP received additional evidence and that appellant submitted additional evidence on appeal. However, the Board's *Rules of Procedure* provides: "the Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id*.

ISSUES

The issues are: (1) whether appellant has met her burden of proof to establish an emotional condition in the performance of duty, as alleged; and (2) whether OWCP properly denied appellant's request for a hearing before its Branch of Hearings and Review pursuant to 5 U.S.C. § 8124(b).

FACTUAL HISTORY

On March 20, 2018 appellant, then a 64-year-old retired loan specialist, filed an occupational disease claim (Form CA-2) alleging that employment factors caused depression, anxiety, sleeplessness, sadness, joint pain, and loss of hair. The employing establishment controverted the claim.

In a March 4, 2016 statement, appellant alleged that the employing establishment improperly removed her from its telework program. She explained that she initially signed an April 2013 telework agreement allowing her to telework one day a week, and that she was promised that, after 90 days, she would be allowed to telework three days a week. Based on this assurance, appellant began renovations on her home in Georgia, even though her duty station was in Nashville Tennessee. She explained that she wanted to move to Georgia because she had custody of a granddaughter, and that in Georgia she could place her granddaughter on her health insurance, but she could not in Tennessee. Appellant indicated that she had noted on a telework agreement that she would work from both Tennessee and Georgia, and that her request had been approved. In July 2013, she increased her request to telework four days a week. Appellant continued that, on or about the end of July 2013, employing establishment staff received an e-mail indicating that telework was to be limited to two days a week. Her request to telework four days was denied in August 2013, and that she then put in a request to telework three days a week. In September 2013, this request was denied, and appellant was removed from the telework program. She maintained that she should have been allowed to request two days of telework, instead of being removed from the telework program. While the reason given for the removal was that appellant's telework station must be within two hours of her duty station, this policy had never been enforced and other employees teleworked from remote locations. She noted that she filed a grievance which was denied, but that ultimately, following intervention by a senior union official in January 2014, she was allowed to telework two days a week from Georgia. Appellant noted that, a request in March 2014 to increase telework to three days a week was denied, therefore in June 2014 she took a downgrade and transferred to the Atlanta, Georgia office.

Appellant alleged that her telework privileges were withdrawn in retaliation for her union activities and for questioning management actions, and that the employing establishment committed error by not allowing her to file a workers' compensation claim. She maintained that these were deliberate acts of harassment against her by management.

The employing establishment submitted a December 4, 2015 statement[4] in which S.A., former deputy chief of the monitoring unit, explained that on April 26, 2013 appellant's telework

[4] The statement was also signed by D.W., chief of the monitoring unit.

proposal was approved for telework from both her Nashville, Tennessee address and her Georgia address one day per week, however, approval of the Georgia address was an oversight. Both the telework agreement and the telework self-certification safety checklist related her Nashville, Tennessee address, which was the only approved alternative worksite. S.A. continued that on July 16, 2013 appellant requested a hardship telework schedule because she had obtained custody of her granddaughter and appellant requested to work from Georgia eight days per pay period. She indicated that the telework request was denied on August 9, 2013 because employing establishment policy provided that employees must work within two hours of their official duty station. Appellant was provided information on how to request a hardship transfer, but that she did not submit a hardship transfer request. S.A. related that appellant again requested a hardship telework schedule on August 27, 2013 to work six days per pay period from Georgia. This request was denied, and appellant was again provided information on how to request a hardship transfer, but did not submit another hardship transfer request. On September 3, 2013 she once again requested to telework from both her Nashville and Georgia locations, this time requesting to telework three days per week (six days per pay period) in conjunction with her compressed schedule. This request was once again denied since appellant's work unit was only authorized to telework a maximum of two days per week (four days per pay period). Once again, she was provided information on how to request a hardship transfer, but did not submit a transfer request.

S.A. indicated that on September 23, 2013 appellant's union filed a grievance on behalf of appellant regarding her telework denial. Step 1 of the grievance was denied on January 9, 2014. Within the grievance appellant stated that supervisor D.W. told appellant that she would "consider" allowing her to telework three days per week, clearly indicating no promises were made. The grievance denial specifically indicated that the reason for the denial, in part, was because the requests were for more than two days per week and that employees of appellant's work unit were only allowed to telework two days per week. It further stated that workflow would be monitored to determine if two days per week was adequate, or could be adjusted. In Step 2 of the grievance, dated October 24, 20l3, D.W. denied the grievance which included a request for a remedy of reimbursement of all expenses incurred by appellant as a result of the denying the telework request. S.A. asserted that appellant was not maliciously denied telework, and that she had been encouraged to submit an acceptable agreement. S.A. thereafter noted that on January 9, 2014 appellant was approved to telework from her Georgia address two days per week in conjunction with her compressed work schedule. This required appellant to come into the Nashville, Tennessee office five days per pay period. S.A. further explained that on March 19, 2014 appellant submitted a proposal requesting to telework three days per week from Georgia, and this was also denied because her work unit was only authorized to telework a maximum of two days per week (four days per pay period). On May 20, 2014 appellant requested a hardship transfer to the Atlanta, Georgia regional office, and the request was approved. S.A. concluded that appellant's accusations of mistreatment at the employing establishment were unfounded, that no one had retaliated against appellant, and that appellant was not forced to move to Georgia due to adverse work conditions, noting that employing establishment procedures only allowed two days of telework per week. She wrote that appellant refused to submit a telework proposal that adhered to employing establishment policies until January 9, 2014 and maintained that appellant knowingly moved to Georgia without a telework agreement in place that allowed more than two telework days a week.

A March 26, 2013 memorandum to employing establishment staff indicated that telework could be appropriate for a maximum of two to three days per week which could be terminated with at least two weeks' notice.

A telework proposal signed by appellant and approved by S.A. on April 26, 2013 indicated that appellant worked an alternative compressed schedule with the second Monday of each pay period off. The proposal listed two alternative worksites: one in Tennessee and one in Georgia, and that appellant was requesting telework each Friday, or two days per pay period. A telework agreement signed by appellant on April 26, 2013 and J.M., Director of Human Resources, on April 30, 2013 indicated that the agreement was for a trial period, that appellant would work offsite each Friday during a pay period, and it only listed her Nashville address as an alternative worksite.

Appellant further submitted a copy of her May 29 and September 13, 2013 grievances regarding the denials of her telework requests.

By memorandum dated August 9, 2013, S.A. denied appellant's request to telework eight days per pay period. She noted that appellant's work unit had only been authorized to telework two days a week and that only one address would be considered as an alternative worksite. On August 29, 2013 S.A. denied appellant's request to telework six days per pay period, and on September 9, 2013 she denied appellant's request to telework three days per week. In these denials she advised appellant that she did not list an alternative worksite within a commuting distance of Nashville, Tennessee and reiterated that her work unit was only authorized to telework two days a week.

On August 28, 2015 J.M. informed appellant that she had reviewed her telework requests and grievances and found that the employing establishment's decisions denying appellant's telework requests were supported by reasonable explanation in accordance with employing establishment practices. She noted that it appeared that appellant was requesting to telework, not only from a different state, but also on more days than had been approved on an organizational level and, as such, were appropriately denied. J.M. also indicated that appellant's request to work from a remote location for 100 percent of the time was considered a request to have appellant's position converted to a remote position, which was deemed not suitable. On November 14, 2015 she notified appellant that nothing further could be done about the denial of telework, noting that it was a privilege not an entitlement.

In an April 20, 2018 statement, W.R., a coworker, indicated that both he and appellant were initially approved to telework from their homes in Georgia during a 90-day telework trial period and would only work in the Tennessee office two to four days a month. He wrote that, after her telework agreement was terminated, she became very depressed. W.R. maintained that the actions of D.W. and S.A. were retaliatory because appellant had filed grievances against them. He also noted that D.W. yelled at appellant during staff meetings.

In a treatment note dated December 15, 2016, Dr. LaToya Lee, a Board-certified family physician, described appellant's symptoms and diagnosed moderate depression. In treatment notes dated January 16 and April 17, 2017, Tamaria Dunn, a nurse practitioner, described appellant's complaints of depression and insomnia. Her diagnoses included episode of recurrent major depressive disorder.

On April 20, 2017 Steven Snook, Ph.D., a clinical psychologist, noted appellant's history of difficulties at work beginning in 2013 and that she was retired. He opined that she would have difficulty adapting to the stress of a work environment. Dr. Snook diagnosed major depressive disorder, recurrent episode, and in partial remission.

Nathalie Ellis, a licensed counselor, submitted an April 22, 2018 treatment note in which she advised that appellant had suffered emotional and psychological distress due to mistreatment at work and diagnosed major depressive disorder, generalized anxiety disorder, and post-traumatic stress disorder.

In correspondence dated June 1, 2016, August 11 and 18, 2017, the Office of Special Counsel (OSC) noted that it did not have the authority to investigate appellant's claim that her telework requests were denied in error because she had filed a grievance. Appellant was advised that she could file a claim with the Merit Systems Protection Board (MSPB).

OWCP received an incomplete copy of a February 27, 2018 MSPB decision dated February 27, 2018. It indicates that appellant made several disclosures of alleged wrongdoings by the employing establishment to the OSC. The MSPB found that she had not exhausted administrative remedies for five of the allegations, that she did not raise four with the OSC, that two lacked specificity, and that she submitted insufficient evidence to support three of the disclosures. Appellant submitted an MSPB petition for review, which was dismissed.

A February 8, 2016 document from OWCP indicates that the claim could not be processed because the injured worker's signature and/or date was missing on the form, the employing establishment code needed to be verified, and an employing agency signature and/or date was missing. A similar document dated March 9, 2016, indicated that the employing establishment signature and/or date was missing.

In a second statement dated April 25, 2018, appellant reiterated her prior concerns. She also included a list of supportive documentation with personal comments. Statements from appellant's daughter and husband further described appellant's emotional condition.

On April 27, 2018 J.L. an employing establishment program manager, indicated that the employing establishment did not concur with appellant's allegations and referred to the December 4, 2015 statement from S.A. J.L. wrote that there were no staff shortages or extra demands placed on employees during the period claimed.

By decision dated June 19, 2018, OWCP denied appellant's claim. It found that she did not sustain an injury in the performance of duty.

On June 29, 2018 appellant requested a hearing before a representative of OWCP's Branch of Hearings and Review.[5]

[5] Appellant also requested that certain employees of the employing establishment be subpoenaed. On September 5, 2018 OWCP denied her requests for subpoenas, finding that there was no indication that the parties could not provide written statements regarding her claim.

During the hearing, held telephonically on October 11, 2018 appellant again described the chronology of events regarding her telework requests and denials.

Following the hearing, appellant submitted evidence previously of record and "corrections" to the hearing transcript in which she provided a longer chronology of events dated from April 26, 2013 to October 24, 2014 than she described at the hearing.

On November 6, 2018 appellant submitted additional evidence including a July 31, 2013 memorandum that D.W. sent to the staff indicating that an increase the number of telework days to two days per week had been authorized, and that each staff member would have to have a new signed agreement. She appended a note that S.A. had promised that appellant could telework three days a week. An August 28, 2013 e-mail from S.A. to appellant indicated that appellant had only been approved for one day a week of telework and noted that D.W. had made a one-time exception allowing her to telework two days. Appellant appended a note that she was not allowed to submit a telework agreement for two days of weekly telework until D.P. intervened. She noted that J.M.'s August 28, 2015 e-mail was incorrect because appellant had never requested to telework 100 percent of the time. Appellant also submitted information regarding her delay in filing her claim.

By decision dated November 21, 2018, an OWCP hearing representative affirmed the June 19, 2018 decision. She noted that appellant's primary concern was the denial of telework outside appellant's office's commuting area for the amount of time she wished. The hearing representative found that this was a function of appellant's wish to set her own schedule and her own workplace and was not in the performance of duty. She further found that appellant provided no evidence to support appellant's generic statements of harassment.

On March 11, 2019 appellant requested another hearing before an OWCP hearing representative. She reiterated her concerns and submitted evidence previously of record.

By decision dated March 28, 2019, OWCP denied appellant's hearing request. It found that, because she had previously had a hearing, she was not, as a matter of right, entitled to another review by the Branch of Hearings and Review, and that her request could equally well be addressed by requesting reconsideration from the district office and submitting evidence not previously considered. OWCP also indicated that, alternatively, appellant could file an appeal with the Board.

LEGAL PRECEDENT -- ISSUE 1

An employee seeking benefits under FECA[6] 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 filed within the applicable time limitation, that an injury was sustained while in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the

[6] *Supra* note 2.

employment injury.[7] These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.[8]

To establish a claim for an emotional condition in the performance of duty, an employee must submit: (1) medical evidence establishing that he or she has an emotional or psychiatric disorder; (2) factual evidence identifying employment factors or incidents alleged to have caused or contributed to his or her condition; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to his or her emotional condition.[9]

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*,[10] 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.[11] When disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability is deemed compensable.[12]

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.[13] Where, however, the evidence demonstrates that the employing establishment either erred or acted abusively in discharging its administrative or personnel responsibilities, such action will be considered a compensable employment factor.[14]

For harassment or discrimination to give rise to a compensable disability under FECA, there must be probative and reliable evidence that harassment or discrimination did in fact occur. Mere perceptions of harassment, retaliation, or discrimination are not compensable under FECA.[15] As a rule, allegations alone by a claimant are insufficient to establish a factual basis for an emotional condition claim. The claim must be supported by probative evidence.[16]

---

[7] *S.Z.*, Docket No. 20-0106 (issued July 9, 2020); *R.C.*, 59 ECAB 427 (2008).

[8] *Id*.

[9] *R.B.*, Docket No. 19-0343 (issued February 14, 2020).

[10] 28 ECAB 125 (1976).

[11] *M.A.*, Docket No. 19-1017 (issued December 4, 2019); *Robert W. Johns*, 51 ECAB 137 (1999).

[12] *Supra* note 9; *Pamela D. Casey*, 57 ECAB 160 (2005); *supra* note 10.

[13] *D.T.*, Docket No. 19-1270 (issued February 4, 2020); *Thomas D. McEuen*, 41 ECAB 387 (1990).

[14] *M.A.*, *supra* note 11.

[15] *C.R.*, Docket No. 19-1721 (issued June 17, 2020); *Kim Nguyen*, 53 ECAB 127 (2001).

[16] *L.S.*, Docket No. 18-1471 (issued February 26, 2020).

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met her burden of proof to establish an emotional condition in the performance of duty.

In the present case, appellant has not attributed her emotional condition to the performance of her regular duties as a loan specialist or to any special work requirement arising from her employment duties under *Cutler*.[17] Rather, appellant has attributed the crux of her emotional condition claim to being denied the requested number of days of telework, that her telework privileges were improperly removed for a period, and that ongoing telework issues forced her to transfer from Nashville, Tennessee to Atlanta, Georgia and accept a lesser-paying position.

As a general rule, a claimant's reaction to administrative or personnel matters falls outside the scope of FECA.[18] The Board has held that 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.[19] However, the Board has also 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.[20]

Work assignments including determinations regarding telework,[21] are administrative functions of the employing establishment, and not duties of the employee. In this case, although an initial telework proposal, signed by appellant and S.A. on April 26, 2013 indicated that telework from both Tennessee and Georgia was approved during a trial period, the actual telework agreement at that time, signed by appellant and J.M. on April 30, 2013 indicated that the only alternative worksite was in Tennessee. The fact that the proposal was denied in the final agreement does not establish error and abuse. Following the trial period, the employing establishment's policy was to allow telework for two days a week. Instead of requesting this, appellant requested three and then four days of telework weekly. Each proposal was denied because her telework requests were for a greater number of days than the maximum allowed. This does not establish error or abuse. Moreover, in each denial, remedies were suggested by employing establishment management. It is unclear if, when employing establishment's telework privileges were removed, that appellant submitted a telework request for two days a week. Appellant submitted a grievance that was denied, and was allowed to telework two days a week beginning in January 2014.

An emotional condition is not compensable when it results from not being permitted to work in a particular environment or to hold a particular position.[22] Several supervisory statements

[17] *Supra* note 10.

[18] *R.B.*, *supra* note 9; *Carolyn S. Philpott*, 51 ECAB 175 (1999).

[19] *S.K.*, Docket No. 18-0705 (issued July 29, 2020); *Thomas D. McEuen*, *supra* note 13.

[20] *S.K.*, *id.*

[21] *Supra* note 16.

[22] *S.R.*, Docket No. 19-1591 (issued August 18, 2020); *Lillian Cutler*, *supra* note 10.

demonstrate that the employing establishment acted reasonably in denying appellant's requested telework schedule that was greater than that allowed for her work unit. The Board finds that no error or abuse was shown. Therefore, appellant did not establish error or abuse in this administrative function.[23]

Appellant also maintained that the withdrawal of telework privileges was in retaliation for her union activities and because she questioned management action. She, however, submitted no evidence to establish this claim. The record contains no corroborating evidence such as a final determination from an administrative body, showing that the employing establishment committed error or abuse in any administrative matter in this case.[24] Thus, as appellant has not substantiated error or abuse by the employing establishment, she has not established a compensable employment factor with respect to her denial of telework or any other administrative matter.[25]

Appellant also maintained that the employing establishment committed error by not allowing her to file a workers' compensation claim. She maintained that this was a deliberate act of harassment against her by management. Appellant also indicated that she was berated at meetings. As noted, for harassment or discrimination to give rise to a compensable disability under FECA, there must be probative and reliable evidence that harassment or discrimination did in fact occur. Mere perceptions of harassment, retaliation, or discrimination are not compensable under FECA.[26] Unsubstantiated allegations of harassment, retaliation, or discrimination are not determinative of whether such conduct occurred. A claimant must establish a factual basis for his or her allegations that the harassment occurred with probative and reliable evidence.[27] While W.R. maintained that the actions of D.W. and S.A. were in retaliation and that D.W. yelled at appellant during meetings, he did not describe specific incidents of harassment or evidence of retaliation. General allegations of harassment are insufficient to establish a compensable factor of employment.[28] The Board finds that appellant has submitted insufficient evidence to substantiate that she was harassed by employing establishment management.[29]

For the reasons noted above, appellant has not established a compensable factor of employment under FECA. She, therefore, has not met her burden of proof to establish an emotional condition in the performance of duty.

[23] *Supra* note 16.

[24] *Id*.

[25] *Id*.

[26] *Supra* note 15.

[27] *S.R.*, *supra* note 22.

[28] *Supra* note 16; *Marlon Vera*, 54 ECAB 854 (2003).

[29] *Id*.

As appellant has not met her burden of proof to establish an employment-related emotional condition, it is not necessary to consider the medical evidence of record.[30]

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.

LEGAL PRECEDENT -- ISSUE 2

Section 8124(b)(1) of FECA, concerning a claimant's entitlement to a hearing before an OWCP representative, provides in pertinent part: "Before review under section 8128(a) of this title, a claimant for compensation not satisfied with a decision of the Secretary ... is entitled, on request made within 30 days after the date of the issuance of the decision, to a hearing on his claim before a representative of the Secretary.[31]

OWCP's regulation at 20 C.F.R. §10.616 (a) further provides in pertinent part: "A claimant, injured on or after July 4, 1966, who has received a final adverse decision by the district office may obtain a hearing by writing to the address specified in the decision."

The Board has held that OWCP, in its broad discretionary authority in the administration of FECA, has the power to hold hearings in certain circumstances where no legal provision was made for such hearings and that OWCP must exercise this discretionary authority in deciding whether to grant a hearing.[32] Although a claimant who has previously sought reconsideration is not, as a matter of right, entitled to a hearing or review of the written record,[33] the Branch of Hearings and Review may exercise its discretion to either grant or deny a hearing following reconsideration.[34] Similarly, the Board has held that the Branch of Hearings and Review may exercise its discretion to conduct a hearing or review the written record where a claimant requests a second hearing or review of the written record on the same issue.[35]

ANALYSIS -- ISSUE 2

The Board finds that OWCP properly denied appellant's March 11, 2019 request for a hearing before a representative of OWCP's Branch of Hearings and Review.

The most recent decision issued by OWCP prior to appellant's March 11, 2019 decision, was the November 21, 2018 decision issued by an OWCP hearing representative. As noted, prior to that decision, a hearing was held on October 11, 2018. By that decision, the hearing

[30] *Supra* note 9.

[31] 5 U.S.C. § 8124(b)(1).

[32] *L.S.*, Docket No. 18-0264 (issued January 28, 2020).

[33] 20 C.F.R. § 10.616(a).

[34] *K.L.*, Docket No. 18-1018 (issued April 10, 2019).

[35] *Id*.

representative affirmed a June 19, 2018 denial of appellant's claim. Consequently, appellant was not entitled to a second hearing before OWCP's Branch of Hearings and Review as a matter of right as she had previously requested a hearing by an OWCP hearing representative.[36]

A representative of the Branch of Hearings and Review properly exercised its discretion in denying appellant's second request for a hearing and found that appellant's claim could be adequately addressed during the reconsideration process. The Board has held that the only limitation on OWCP's discretionary authority is reasonableness. An abuse of discretion is generally shown through proof of manifest error, a clearly unreasonable exercise of judgment, or actions taken which are contrary to logic and probable deduction from established facts.[37] In this case, the evidence of record does not establish that OWCP abused its discretion in denying appellant's request for a hearing. Accordingly, the Board finds that OWCP properly denied her second hearing request.[38]

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish an emotional condition in the performance of duty, as alleged, and that OWCP properly denied her request for a hearing before its Branch of Hearings and Review pursuant to 5 U.S.C. § 8124(b).

[36] *Id*.

[37] *W.H.*, Docket No. 20-0562 (issued August 6, 2020).

[38] *Id*.

ORDER

IT IS HEREBY ORDERED THAT the March 28, 2019 and November 21, 2018 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: November 17, 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