

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

_____)
M.T., Appellant)

and)

DEPARTMENT OF JUSTICE, BUREAU OF)
PRISONS, FEDERAL CORRECTIONAL)
INSTITUTION DUBLIN, Dublin, CA, Employer)
_____)

**Docket No. 22-1212
Issued: January 26, 2023**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:

ALEC J. KOROMILAS, Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

On August 18, 2022 appellant filed a timely appeal from a July 25, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 22-1212.

On June 9, 2022 appellant, then a 54-year-old social scientist, filed a traumatic injury claim (Form CA-1) alleging that on May 17, 2022 she sustained an injury when management informed her that all managers and supervisors were being reassigned. Management specifically advised her that her reassignment was out of state. Appellant stopped work on June 8, 2022 and returned to work on June 9, 2022.

In a development letter dated June 14, 2022, OWCP advised appellant of the type of factual and medical evidence necessary to establish her claim and provided a questionnaire for her completion. In a separate development letter of even date, it requested that the employing establishment provide additional information, including comments from a knowledgeable supervisor regarding the accuracy of her allegations, and information about the reason for the transfer. OWCP afforded both parties 30 days to submit the requested evidence.

Appellant was treated on June 16, 2022 for adjustment disorder with mixed anxiety and depressed mood by Janice Lynn Alley, Psy.D., a clinical psychologist. Dr. Alley held appellant off work from June 16 through 17, 2022.

In a June 27, 2022 statement, appellant related that she had experienced a rapid heartbeat, nausea, and despair on May 17, 2022 after being told in a mandatory meeting that she was being reassigned to a work location in another state. She noted that her family had life-threatening medical issues that made relocation difficult. Appellant asserted that she had not been involved in the scandal that necessitated the relocation.

T.R., a supervisor, indicated in an email that appellant's position description provided that frequent relocation of supervisors and managers was necessary to meet the needs of the employing establishment.¹

By decision dated July 25, 2022, OWCP denied appellant's traumatic injury claim. It found that she had established the occurrence of the claimed May 17, 2022 employment incident and that she had a diagnosed medical condition. OWCP found, however, that the medical evidence was insufficient to establish a condition causally related to the accepted work incident of attending a mandatory meeting at work.

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

FECA² provides that OWCP shall determine and make findings of fact in making an award for or against payment of compensation after considering the claim presented by the employee and after completing such investigation as it considers necessary with respect to the claim.³ The reasoning behind OWCP's evaluation should be clear enough for the reader to understand the precise defect of the claim and the kind of evidence which would overcome it.⁴

OWCP's procedures provide that, in adjudicating emotional condition claims, the claims examiner should develop and analyze the identified employment factors.⁵ OWCP should distinguish between the alleged employment incidents and determine which in fact occurred, which are considered factors of employment, and which are outside the scope of employment for purposes of compensation by outlining work-related and nonwork-related elements.⁶ These should be labeled as alleged events that are factors of employment, alleged events that are not factors of

¹ The date of the email is not legible.

² 5 U.S.C. 8101 *et seq.*

³ *Id.* at § 8124(a)(2); 20 C.F.R. § 10.126.

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.5c (February 2013); *see also M.N.*, Docket No. 20-0531 (issued May 7, 2021).

⁵ *Id.* at Chapter 2.804.17j (July 1997).

⁶ *Id.* at Chapter 2.809.5h (September 2009); *R.B.*, *Order Remanding Case*, Docket No. 20-0619 (issued May 24, 2022); *M.N.*, *supra* note 4.

employment, and compensable factors which are not factually substantiated.⁷ When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, OWCP must then base its decision on an analysis of the medical evidence.⁸

The Board finds that OWCP, in its July 25, 2022 decision, failed to discharge its responsibility to make findings of fact regarding whether appellant had established any compensable factors of employment prior to analyzing the medical evidence.⁹ The case will accordingly be remanded to OWCP to make proper findings of fact in accordance with its procedures. Following this and such further development as deemed necessary, OWCP shall issue a *de novo* decision.

IT IS HEREBY ORDERED THAT the July 25, 2022 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this order of the Board.

Issued: January 26, 2023
Washington, DC

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

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

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board

⁷ *Id.*

⁸ *See C.B.*, Docket No. 20-1259 (issued July 15, 2022); *Robert Breeden*, 57 ECAB 622 (2006).

⁹ *M.N.*, *supra* note 4.