

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

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<b>S.A., Appellant</b>	)	
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<b>and</b>	)	<b>Docket No. 25-0857</b>
	)	<b>Issued: January 14, 2026</b>
<b>DEPARTMENT OF VETERANS AFFAIRS,</b>	)	
<b>CHEYENNE VA MEDICAL CENTER,</b>	)	
<b>Cheyenne, WY, Employer</b>	)	
	)	

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chief Judge  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On September 8, 2025 appellant filed a timely appeal from a March 26, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP).<sup>1</sup> Pursuant to the Federal Employees'

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<sup>1</sup> Appellant timely requested oral argument before the Board. 20 C.F.R. § 501.2(b). Pursuant to the Board's *Rules of Procedure*, oral argument may be held in the discretion of the Board. 20 C.F.R. § 501.5(a). In support of her request for oral argument appellant contended that OWCP did not convert the present claim to an occupational disease claim as directed by its hearing representative. The Board in exercising its discretion, denies appellant's request for oral argument because the arguments on appeal can adequately be addressed in a decision based on a review of the case record. Oral argument in this appeal would further delay issuance of a Board decision and not serve a useful purpose. As such, the oral argument request is denied, and this decision is based on the case record as submitted to the Board.

Compensation Act<sup>2</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>3</sup>

### **ISSUE**

The issue is whether appellant has met her burden of proof to establish an emotional/stress-related condition in the performance of duty, as alleged.

### **FACTUAL HISTORY**

On June 11, 2024 appellant, then a 41-year-old medical clerk, filed a traumatic injury claim (Form CA-1) alleging that on that date she developed an emotional condition when her supervisor informed her that he had received reports that she had problems with personal hygiene while in the performance of duty. The supervisor sent her home until the issue was resolved. On the reverse side of the claim form, the employing establishment controverted the claim, contending that appellant did not report the injury to her supervisor or leadership.

In a June 12, 2024 e-mail, C.P., a coworker, related to M.G., appellant's supervisor, that three coworkers had complained of strong body odor emanating from appellant, and her greasy matted hair with white flakes, during a training session the previous day. C.P. indicated that she had noted the same issues.

In an e-mail dated June 13, 2014, M.L. related that a coworker complained that appellant "smelled musty." She also noticed a strong odor emanating from appellant. M.L. related that when she informed appellant that the issue had been brought to her attention and asked if appellant was okay, appellant pulled a spray from her backpack and sprayed her armpits area.

On June 17, 2024 OWCP received an undated statement wherein appellant related that she was being treated for depressed kidney function, which could cause sweat to smell like ammonia.

On June 18, 2025 the employing establishment issued an authorization for examination and/or treatment (Form CA-16) to Dr. Linda Young, Board-certified in family medicine, authorizing appellant's medical treatment.

In a June 18, 2024 statement, M.G. explained that he had informed appellant on June 11, 2024 that there had been several complaints about her body odor which was distracting for other employees. Appellant was instructed to go home and return the next day "with good professional hygiene." On June 12, 2024 M.G. received an e-mail from appellant informing him that she was filing a workers' compensation claim.

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<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

<sup>3</sup> The Board notes that following the March 26, 2025 decision, OWCP received additional evidence. 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.*

On June 20, 2024 the employing establishment controverted appellant's claim, contending that appellant's reaction was a self-generated reaction to an appropriate administrative action.

In a development letter dated June 25, 2024, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed to establish her claim and afforded her 60 days to respond.

OWCP subsequently received June 17, 2024 reports from Dr. Young. Dr. Young related that on June 11, 2024 appellant's employer sent her home due to having ashy hair and body odor. She assessed appellant's condition as situational stress.

OWCP also received progress notes dated June 21, 2024 from Dr. Kirby J. Duvall, a Board-certified family medicine physician, diagnosing stress, anxiety, and possible early depression. Dr. Duvall related that appellant's workload had increased and was causing overwork and the odor complaints was the breaking point. Appellant had reported this to an outside agency and was told to stop outside reporting. On June 11, 2025 she was told she had body odor and was instructed not to return to work until it was resolved. Appellant believed this work stress caused her depression and anxiety.

In a follow-up letter dated July 23, 2024, OWCP advised appellant that it had conducted an interim review and the evidence remained insufficient to establish her claim. It noted that she had 60 days from the June 25, 2024 letter to submit the necessary evidence. OWCP further advised that if the evidence was not received during this time, it would issue a decision based on the evidence contained in the record.

In response, appellant submitted statements from her mother, K.A., and coworkers T.M., S.L., and B.F. These statements described hostile events they had witnessed or experienced at the employing establishment.

Appellant also submitted progress notes dated June 26, 2024 from Margaret Kareus, a nurse practitioner, which related diagnoses of post-traumatic stress disorder (PTSD), anxiety, depression, seborrheic dermatitis, and slightly decreased kidney function labs, possibly due to high-protein diet. In a form report, of even date, Ms. Kareus advised that appellant would be disabled from work during the period June 11 through July 26, 2024. Additional progress notes from Ms. Kareus were received dated June 19, and September 3 and 18, 2024.

In an unsigned July 1, 2024 letter to OWCP, appellant responded to the employing establishment's controversion of her claim. She summarized events from June 11 through July 1, 2024, alleging a hostile work environment due to cronyism and nepotism at the employing establishment. Appellant also alleged that she was retaliated against because her mother wrote letters to employing establishment management.

In a July 25, 2024 psychological assessment, Stephanie Hotaling, M.A., related that appellant's psychological testing revealed severe depression and severe anxiety. She diagnosed PTSD. Ms. Hotaling attributed appellant's anxiety to her current work difficulties, noting that she has tried working diligently with her supervisors with almost no success in facilitating positive changes. In an August 13, 2024 report, she diagnosed acute PTSD and recommended a staged reentry plan for appellant's return to work. Ms. Hotaling related that the events of June 11, 2024

triggered appellant's extreme anxiety because another employee had been terminated allegedly due to odor complaints.

By decision dated August 28, 2024, OWCP denied appellant's claim, finding that the evidence of record was insufficient to establish a compensable factor of employment.

On September 27, 2024 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. In support thereof, she submitted a September 4, 2024 statement, further alleging she had been retaliated against and subjected to cronyism and nepotism at the employing establishment. Appellant alleged that she had been overwhelmed by nurses and doctors asking for her help because managers at an employing establishment medical clinic were seen as inept. She also alleged that she had to work by herself at the clinic, even though M.G. had previously stated that two supervisors should always work this location.

In a June 18, 2024 e-mail, J.B., an employing establishment manager, informed appellant that he needed her to return to work with good professional hygiene. He informed appellant that he was aware she had a medical condition which may complicate the situation, and that he was happy to discuss a reasonable accommodation.

On January 10, 2025 appellant, through her then-representative, noted her disagreement with the August 28, 2024 decision. Her then-representative related that appellant's workload had increased from supervisory duties related to her team at the medical clinic, to supervisory duties for the other clinics. Appellant's then-representative also noted that appellant had filed an Equal Employment Opportunity (EEO) retaliation complaint and an Office of Special Counsel (OSC) complaint regarding management abuse for circumventing Merit Systems Protection Board (MSPB) laws. Her then-representative submitted evidence regarding another employee being terminated in 2023, following complaints of that employee having body odor.

In a September 12, 2024 request for medical documentation for a work accommodation, Dr. Robert Moran, an osteopath Board-certified in family medicine, requested appellant be allowed to telework. He reported that her PTSD was triggered by the stress and "threat to her livelihood" by being sent home from the office by her supervisor without a clear remedy. In progress notes dated September 17 and 25, 2024, Dr. Moran opined that appellant was suffering from a stress reaction which he attributed to the employing establishment trying to push her out of her job. He noted that appellant practiced good hygiene and opined that the employing establishment was using this tactic to harass her. Dr. Moran alleged that appellant's immediate supervisor created a hostile work environment for appellant.

In a November 1, 2024 complaint of employment discrimination, appellant alleged that she was discriminated against based on her disability and gender, retaliated against for being a whistleblower, and harassed. She detailed specific incidents covering the period May 2023 through October 2024.

In a January 8, 2025 therapy progress report, Ms. Hotaling reported that appellant had attended weekly counseling to process the trauma experienced at her work. She recounted the details of the June 11, 2024 incident and diagnosed moderately severe depression, moderate anxiety, severe distress, and significant PTSD symptoms. Ms. Hotaling explained that the June 11,

2024 incident caused great psychological injury due to the lack of procedure for appellant to follow to return to work, that she was aware another employee had been fired for a similar complaint, and that she believed she was sent home in retaliation for her filing a complaint about unethical practices at her workplace.

In a January 9, 2025 statement, appellant outlined events that occurred from when she was hired on February 22, 2023 through November 2024 when she filed an EEO claim alleging discrimination and retaliation.

A hearing was held on January 10, 2025.

Dr. Moran, in a January 12, 2025 report, reviewed Ms. Hotaling's January 8, 2025 report and concurred with her clinical findings and therapy goals/treatment plan. She also related that appellant never exhibited signs or symptoms of an odor or dander problem.

On January 31, 2025 appellant received an undated note from Dr. Emily Stevens, a Board-certified dermatologist, who diagnosed a chronic scalp condition, which was not contagious. Dr. Stevens requested appellant be allowed to resume her normal duties.

By decision dated March 26, 2025, OWCP's hearing representative affirmed the August 28, 2024 decision.

#### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>4</sup> has the burden of proof to establish the essential elements of his or her claim,<sup>5</sup> including 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,<sup>6</sup> that he or she sustained an injury in the performance of duty, and that any specific condition or disability from work for which he or she claims compensation is causally related to that employment injury.<sup>7</sup> 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.<sup>8</sup>

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<sup>4</sup> *Supra* note 2.

<sup>5</sup> *H.S.*, Docket No. 24-0926 (issued January 10, 2025); *B.K.*, Docket No. 23-0902 (issued November 29, 2023); *L.G.*, Docket No. 21-0690 (issued December 9, 2021); *S.S.*, Docket No. 19-1021 (issued April 21, 2021); *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

<sup>6</sup> *T.B.*, Docket No. 25-0018 (issued November 4, 2024); *S.S.*, *id.*; *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued December 13, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>7</sup> *B.K.*, *supra* note 5; *L.G.*, *supra* note 5; *S.S.*, *id.*; *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>8</sup> 20 C.F.R. § 10.115(e); *B.K.*, *id.*; *M.K.*, Docket No. 18-1623 (issued April 10, 2019); *T.O.*, Docket No. 18-1012 (issued October 29, 2018); *Michael E. Smith*, 50 ECAB 313 (1999).

To establish an emotional condition in the performance of duty, a claimant must submit: (1) factual evidence identifying an employment factor or incident alleged to have caused or contributed to his or her claimed emotional condition; (2) medical evidence establishing that he or she has a diagnosed emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the accepted compensable employment factors are causally related to the diagnosed emotional condition.<sup>9</sup>

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment.<sup>10</sup> In the case of *Lillian Cutler*,<sup>11</sup> 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 an illness has some connection with the employment but nevertheless does not come within the coverage under FECA.<sup>12</sup> 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.<sup>13</sup> On the other hand, the disability is not covered when 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.<sup>14</sup>

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.<sup>15</sup> 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.<sup>16</sup>

To the extent that, disputes and incidents alleged as constituting harassment by coworkers are established as occurring and arising from a claimant's performance of his or her regular duties,

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<sup>9</sup> See *B.K.*, *supra* note 5; *S.K.*, Docket No. 18-1648 (issued March 14, 2019); *M.C.*, Docket No. 14-1456 (issued December 24, 2014); *Debbie J. Hobbs*, 43 ECAB 135 (1991); *Donna Faye Cardwell*, 41 ECAB 730 (1990).

<sup>10</sup> See *B.K.*, *id.*; *L.D.*, 58 ECAB 344 (2007); *Robert Breedon*, 57 ECAB 622 (2006).

<sup>11</sup> 28 ECAB 125 (1976).

<sup>12</sup> *C.L.*, Docket No. 22-0499 (issued June 4, 2024); *G.M.*, Docket No. 17-1469 (issued April 2, 2018); *Robert W. Johns*, 51 ECAB 137 (1999).

<sup>13</sup> See *B.K.*, *supra* note 5; *S.K.*, *supra* note 9; *D.T.*, Docket No. 19-1270 (issued February 4, 2020); *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 556 (1991).

<sup>14</sup> See *B.K.*, *id.*; *Gregorio E. Conde*, 52 ECAB 410 (2001).

<sup>15</sup> See *R.M.*, Docket No. 19-1088 (issued November 17, 2020); *Thomas D. McEuen*, *supra* note 13.

<sup>16</sup> *T.B.*, Docket No. 25-0552 (issued August 27, 2025); *L.R.*, Docket No. 23-0925 (issued June 20, 2024); *M.A.*, Docket No. 19-1017 (issued December 4, 2019).

these may constitute employment factors.<sup>17</sup> 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.<sup>18</sup> Mere perceptions of harassment are not compensable under FECA.<sup>19</sup> A claimant must substantiate allegations of harassment or discrimination with probative and reliable evidence.<sup>20</sup>

### ANALYSIS

The Board finds that appellant has not met her burden of proof to establish an emotional/stress-related condition in the performance of duty, as alleged.

Appellant has attributed her emotional condition, in part, to *Cutler*<sup>21</sup> factors. She alleged overwork in that she was assigned supervisory duties related to her team at the medical clinic and was then also assigned supervisory duties at other medical clinics. Pursuant to *Cutler*<sup>22</sup> this allegation regarding her assigned duties could constitute a compensable employment factor. The Board has held that overwork, when substantiated by sufficient factual evidence to corroborate appellant's account of events, may be a compensable factor of employment.<sup>23</sup> Other than appellant's general allegations, she did not submit evidence establishing that she was overworked. Thus, the Board finds that she has not established a compensable employment factor under *Cutler*.

Appellant has also attributed her emotional condition, in part, to a June 11, 2024 incident, when her supervisor, M.G., told her that there had been complaints about her hygiene, and she was sent home until her hygiene improved. As explained above, where 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.<sup>24</sup> Appellant, however, has not submitted any evidence to support that M.G. erred or acted unreasonably by informing her of complaints about her hygiene and telling her to go home until

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<sup>17</sup> *T.L.*, Docket No. 18-0100 (issued June 20, 2019); *M.R.*, Docket No. 18-0304 (issued November 13, 2018); *David W. Shirey*, 42 ECAB 783, 795-96 (1991); *Kathleen D. Walker*, 42 ECAB 603, 608 (1991).

<sup>18</sup> See *K.F.*, Docket No. 23-0278 (issued August 7, 2023); *E.G.*, Docket No. 20-1029 (issued March 18, 2022); *S.L.*, Docket No. 19-0387 (issued October 1, 2019); *S.B.*, Docket No. 18-1113 (issued February 21, 2019).

<sup>19</sup> *Id.*

<sup>20</sup> See *J.R.*, Docket No. 20-1382 (issued December 30, 2022); *L.J.*, Docket No. 20-0998 (issued December 14, 2022); *S.G.*, Docket No. 22-0495 (issued November 4, 2022); *J.F.*, 59 ECAB 331 (2008); *Robert Breeden*, 57 ECAB 622 (2006).

<sup>21</sup> *Supra* note 11

<sup>22</sup> *Id.*

<sup>23</sup> *L.S.*, Docket No. 18-1471 (issued February 26, 2020); *R.B.*, Docket No. 19-0343 (issued February 14, 2020); *W.E.*, Docket No. 18-1526 (issued November 26, 2019); *Bobbie D. Daly*, 53 ECAB 691 (2002).

<sup>24</sup> *Supra* note 17.

her hygiene issue had been addressed. Thus, she has not established a compensable employment factor with respect to this administrative/personnel matter.

Regarding allegations of retaliation, in response, appellant submitted statements from her mother, K.A., and coworkers T.M., S.L., and B.F. However, these statements described hostile events they had witnessed or experienced at the employing establishment and do not corroborate appellant's allegations of retaliation.<sup>25</sup> In addition, appellant submitted a copy of her EEO complaint. However, there is no final EEO decision which found that the employing establishment retaliated against her.<sup>26</sup> The Board therefore finds that appellant has not established a compensable factor of employment with respect to harassment and discrimination.

As the Board finds that appellant has not established a compensable employment factor, it is not necessary to consider the medical evidence of record.<sup>27</sup>

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 an emotional/stress-related condition in the performance of duty, as alleged.<sup>28</sup>

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<sup>25</sup> *V.A.*, *id.*; *A.F.*, *id.*; *E.F.*, *id.*; *B.S.*, Docket No., 19-0378 (issued July 10, 2019).

<sup>26</sup> See *M.C.*, Docket No. 24-0655 (issued August 27, 2024); *M.E.*, Docket No. 21-1340 (issued February 1, 2023); *V.R.*, Docket No. 20-0689 (issued February 5, 2021).

<sup>27</sup> *B.O.*, Docket No. 17-1986 (issued January 18, 2019) (it is not necessary to consider the medical evidence of record if a claimant has not established any compensable employment factors). See also *Margaret S. Krzycki*, 43 ECAB 496, 502-03 (1992).

<sup>28</sup> The Board notes that the employing establishment issued a June 18, 2025 Form CA-16. A completed Form CA-16 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. See 20 C.F.R. § 10.300(c); *S.G.*, Docket No. 23-0552 (issued August 28, 2023); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 26, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 14, 2026  
Washington, DC

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

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

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