

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

C.M., Appellant)	
)	
and)	Docket No. 18-1166
)	Issued: July 9, 2019
U.S. POSTAL SERVICE, POST OFFICE,)	
Charlotte, NC, Employer)	
)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On May 22, 2018 appellant filed a timely appeal from a March 20, 2018 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met her burden of proof to establish that her emotional condition is causally related to the accepted August 31, 2017 employment incident.

FACTUAL HISTORY

On September 6, 2017 appellant, then a 47-year-old mail carrier, filed a traumatic injury claim (Form CA-1) alleging that on August 31, 2017 she sustained an emotional condition post-

¹ 5 U.S.C. § 8101 *et seq.*

traumatic stress disorder (PTSD) as a result of hearing her coworker being shot while she was on the telephone with him while in the performance of duty. She stopped work on September 2, 2017.

In a handwritten statement, appellant described that on August 31, 2017 she was on the telephone with E.M., a mail carrier, when the conversation stopped and she heard a scuffle and a loud noise. She related that a few seconds later, E.M. told her that he had been shot and that he needed help. Appellant noted that she hung up the telephone and tried to get help for him. She explained that she did not know what was happening and began to think that someone was shooting mail carriers. Appellant reported that she was afraid to come out of her house because she feared being shot.

Appellant submitted a September 6, 2017 work excuse from Dr. Claire A. Presswood, a Board-certified internist. The note indicated that appellant had been seen that day and was excused from work for the period September 2 to 16, 2017.

In a letter dated September 8, 2017, the employing establishment controverted appellant's claim. It provided a September 6, 2017 e-mail from Y.S., a customer service supervisor, who explained that appellant handed her a Form CA-1 saying she wanted to file a claim for stress brought on by the August 31, 2017 accident concerning E.M. Y.S. controverted appellant's claim noting that she should not have been on the telephone. She also noted that appellant continued her normal duties the day of the incident, and a portion of the following day. Lastly, Y.S. noted that the medical report submitted was not from a mental healthcare provider.

In a development letter dated September 15, 2017, OWCP acknowledged receipt of appellant's claim and informed her that additional evidence was needed to establish her claim. It requested that she respond to an attached factual questionnaire in order to substantiate that the August 31, 2017 employment incident occurred as alleged. OWCP also advised appellant to provide medical evidence to establish a diagnosed condition causally related to the alleged incident. It afforded her 30 days to submit additional evidence. No additional evidence was received.

By decision dated October 23, 2017, OWCP denied appellant's claim because the factual component of fact of injury had not been met. It found that the evidence of record failed to establish that the August 31, 2017 incident occurred as alleged. OWCP noted that appellant failed to respond to the factual questionnaire sent to her on September 15, 2017. It also determined that there was insufficient medical evidence to establish a diagnosed condition causally related to the alleged incident. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On November 3, 2017 appellant requested reconsideration.

Appellant received treatment from Latasha Baird, a licensed professional counselor (LPC/S). In a September 14, 2017 intake assessment, Ms. Baird indicated that appellant sought counseling services due to having paranoia, disturbances, fatigue, poor concentration, panic attacks, and feelings of hopelessness and guilt. She reported that the precipitating factor was when her coworker and friend was speaking to her on the telephone and was shot. Ms. Baird related that appellant had two other traumas when her fiancée passed away in 2002 and when a man held a

gun to her head in 1994. She reported that examination of appellant's mental status showed good insight, depressed/flat affect and mood, good judgment, and intact cognitive ability. Ms. Baird diagnosed acute stress disorder. She continued to treat appellant and provided progress notes dated September 21 to October 24, 2017. Ms. Baird noted that appellant still had symptoms related to the August 31, 2017 traumatic event, including panic attacks, hypervigilance, sleep disturbance, and intrusive thoughts.

A September 20, 2017 Millon Clinical Multiaxial Inventory -- III (MCMI -- III) revealed possible diagnoses of paranoid personality disorder, major depression, and generalized anxiety disorder.

In a September 21, 2017 letter from Dr. Presswood, who related that she was appellant's primary care provider and was working in conjunction with appellant's psychiatrist. Dr. Presswood noted that appellant was diagnosed with adjustment disorder, disturbance of emotions and conduct, personal history of trauma, and anxiety. She recommended that appellant remain out of work for the next two weeks.

OWCP also received additional progress notes from Ms. Baird dated September 21 and 28, and October 19 and 24, 2017.

In a November 1, 2017 letter, Dr. Presswood indicated that she continued to treat appellant for PTSD, anxiety, and insomnia all related to the employment incident that occurred with a colleague's shooting. She recommended that appellant continue with her leave of absence for that month and then transition to a position that did not require mail delivery.

By decision dated January 9, 2018, OWCP denied modification of the October 23, 2017 decision. It noted that appellant had still not responded to the September 15, 2017 development questionnaire and, accordingly, the evidence of record failed to establish that the August 31, 2017 employment incident occurred as alleged.

On January 29, 2018 appellant again requested reconsideration. She provided her response to OWCP's questions. Appellant explained that on August 31, 2017 she was out on her route delivering mail and was on the telephone with E.M. She related that she heard a scuffle and then a very loud noise. Appellant indicated that she kept asking E.M. what was that noise and he would not answer. She reported that E.M. finally told her that he had been shot. Appellant related that she asked him where he was, but she could not understand what he said. She noted that she hung up the telephone and tried to get help. Appellant explained that she was already being treated with medication because of an incident that happened to her on November 3, 2016 with a customer who had assaulted her in the mail truck. She indicated that the medication was helping with her anxiety at work until the August 31, 2017 incident with E.M. occurred.

Appellant also submitted a September 2, 2017 news article captioned: "Mailman Shot on the Job Making Deliveries." It addressed the August 31, 2017 shooting of E.M.

In a November 27, 2017 letter, Dr. Presswood indicated that appellant remained unable to carry out her duties as a mail carrier due to her medical condition.

Dr. Presswood also completed a Medical Information and Restriction Assessment form dated January 2, 2018. She related that appellant had PTSD with recurring panic attacks that developed after a coworker was injured on the job. Dr. Presswood noted that appellant was unable to work delivering mail and provided work restrictions.

By decision dated March 20, 2018, OWCP modified the January 9, 2018 decision. It accepted that the August 31, 2017 incident occurred as alleged and that medical diagnoses were established (anxiety, panic attacks, PTSD, adjustment disorder, and major depression), but denied appellant's claim because the medical evidence of record was insufficient to establish that her emotional condition was causally related to the accepted employment incident.

LEGAL PRECEDENT

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

When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter, OWCP must base its decision on an analysis of the medical evidence.³

Causal relationship is a medical question that generally requires rationalized medical opinion evidence to resolve the issue.⁴ A physician's opinion on whether there is a causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background.⁵ Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factor(s).⁶

² *F.B.*, Docket No. 18-1462 (issued May 9, 2019); *G.R.*, Docket No. 18-0893 (issued November 21, 2018); *George H. Clark*, 56 ECAB 162 (2004).

³ *See Norma L. Blank*, 43 ECAB 384, 389-90 (1992). Unless a claimant establishes a compensable factor of employment, it is unnecessary to address the medical evidence of record. *Garry M. Carlo*, 47 ECAB 299, 305 (1996).

⁴ *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

⁵ *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁶ *Id.*

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish causal relationship between her diagnosed emotional condition and the accepted August 31, 2017 employment incident.

Appellant received medical treatment from Dr. Presswood. In letters dated September 21 and November 27, 2017, Dr. Presswood noted that appellant was under her care and diagnosed adjustment disorder, disturbance of emotions and conduct, personal history of trauma, and anxiety. She recommended that appellant remain out of work and then transition to a position that did not require her to deliver mail. In a January 2, 2018 Medical Information and Restriction Assessment form, Dr. Presswood reported that appellant had PTSD with recurring panic attacks that developed after a coworker was injured on the job.

Although Dr. Presswood noted that appellant's PTSD developed after a coworker was injured on the job, such generalized statements do not establish causal relationship.⁷ Her reports do not contain adequate medical rationale explaining how the accepted employment incident had caused or aggravated her emotional condition.⁸ Because Dr. Presswood did not provide a reasoned opinion explaining how the August 31, 2017 employment incident caused or contributed to her PTSD condition, her reports are insufficient to establish appellant's claim.

Appellant also submitted September and October 2017 treatment notes from Ms. Baird, a licensed professional counselor. A licensed professional counselor is not a clinical psychologist, and therefore, does not satisfy the definition of "physician" under FECA.⁹ Because a licensed professional counselor is not considered a physician as defined under FECA, Ms. Baird's treatment records are of no probative value with respect to establishing entitlement to FECA benefits.¹⁰

Because appellant has not provided medical evidence demonstrating that her emotional condition is causally related to the accepted August 31, 2017 employment incident, she has not met her burden of proof to establish her traumatic injury claim.

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 that her emotional condition is causally related to the accepted August 31, 2017 employment incident.

⁷ See *L.M.*, Docket No. 16-0188 (issued March 24, 2016).

⁸ *K.W.*, Docket No. 10-0098 (issued September 10, 2010).

⁹ 5 U.S.C. § 8101(2); see *Jaqueline E. Brown*, 54 ECAB 583, 585-86 (2003).

¹⁰ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the March 20, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 9, 2019
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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