

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

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P.B., Appellant

and

U.S. POSTAL SERVICE, HARBOR BEACH  
POST OFFICE, Harbor Beach, MI, Employer  
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**Docket No. 23-0548**  
**Issued: October 30, 2024**

*Appearances:*  
Michael J. Booms, for the appellant<sup>1</sup>  
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  
JANICE B. ASKIN, Judge

**JURISDICTION**

On March 10, 2023 appellant, through her representative, filed a timely appeal from a February 17, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP).<sup>2</sup>

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<sup>1</sup> 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.

<sup>2</sup> Appellant, through her representative, timely requested oral argument before the Board. 20 C.F.R. § 501.2(b). He asserted that appellant's stroke was caused by factors of her federal employment, including a staff shortage at the employing establishment. 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). 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.

Pursuant to the Federal Employees' Compensation Act<sup>3</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>4</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.

### **FACTUAL HISTORY**

On April 30, 2022 appellant, then a 54-year-old postmaster, filed a traumatic injury claim (Form CA-1) alleging that on April 6, 2022 she experienced a hemorrhagic stroke with left-sided arm and leg weakness, slurred speech, and right-sided brain bleed in the basil ganglia while in the performance of duty at the Forestville Post Office. She noted that she was locked out of her work area and had to climb over a countertop three times to get back behind the counter. Appellant stopped work on April 7, 2022.

In an April 28, 2022 letter, D.O., a post office operations manager, controverted appellant's claim, contending that she had not received any medical documentation to support her claim of injury on April 6, 2022. She questioned why appellant climbed in and out of a window since postmasters have keys to open doors.

In an April 25, 2022 statement, appellant's representative indicated that appellant became ill at work on April 6, 2022. He explained that she began her workday as the postmaster at the Harbor Beach Post Office at 6:30 in the morning. Appellant's post offices had been short-staffed for some time, therefore, in addition to managing her employees, appellant dealt with customer complaints, sorted parcels, put up mail in the box section, and worked the window taking care of customers while at the same time listening to teleconferences and answering calls. After an employee called in sick on April 6, 2022, appellant drove to the Forestville Post Office and performed all the required duties as no other employee was present at this location. She began to feel tired and called her supervisor, D.O., to get permission to close the Forestville location at 11:06 a.m.; however, D.O. did not return her call until 2:18 p.m., by which time appellant was unable to drive or make decisions. M.B. related that appellant's condition worsened at work and she was subsequently transported by ambulance to the hospital where she remained for 13 days. OWCP also received medical evidence in support of the claim.

In a development letter dated May 12, 2022, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence necessary to establish her claim and provided a questionnaire for her completion. OWCP afforded appellant 30 days to respond.

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<sup>3</sup> 5 U.S.C. § 8101 *et seq.*

<sup>4</sup> The Board notes that, following the issuance of the February 17, 2023 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 caserecord 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.*

OWCP received additional medical evidence.

On May 17, 2022 appellant filed an occupational disease claim (Form CA-2) again alleging that she had a hemorrhagic stroke with bleeding on the brain due to factors of her federal employment. She noted that as postmaster she had been short-staffed at the Harbor Beach and Forestville Post Offices for some time, but was told to stay within her work-hour budget. Appellant claimed that she had one full-time postal clerk who was guaranteed 34 hours of work per week. Her own budget hours were for 36 hours of work per week; however, it was impossible to stay within her budget of 36 hours running two post offices. Appellant wanted to provide service to all postal customers; therefore, she took it personally on the days that there were no extra workers to run the Forestville Post Office, and she had to close the facility. She further noted that she drove back and forth between the post offices twice a day, and she also delivered express packages. Appellant also described complaints she had received regarding customer delivery service. She stated that she had been placed in extremely stressful situations time and time again, she did not have enough workers, and she had been asking for help and had been told to figure it out herself. Appellant alleged that the stress of her job led to high blood pressure and her hemorrhagic stroke.

Appellant submitted medical evidence.

Appellant responded to OWCP's development questionnaire on May 20, 2022 and recounted the work duties she performed on April 6, 2022. She noted that she did not have any health problems prior to the alleged April 6, 2022 incident. Appellant continued to claim that her stress was due to being short-staffed that week because her main clerk was off work, and her Forestville clerk of four months quit without warning.

Appellant submitted additional medical evidence.

In a development letter dated May 27, 2022, OWCP again informed appellant of the deficiencies of her claim. It advised her 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, OWCP requested that the employing establishment provide additional information, including comments from a knowledgeable supervisor regarding the accuracy of appellant's statements. It afforded both parties 30 days to submit the necessary evidence.

In statements dated June 2 and 14, 2022, appellant responded to OWCP's May 27, 2022 development letter. She recounted that when she began work as postmaster at the Harbor Beach and Forestville Post Offices, she had a full-time clerk, A.C., who was an effective employee. After A.C. retired in 2018, R.M. was assigned duties as a full-time clerk; however, in 2019, R.M. was detailed for a year. Another clerk could not be hired during this time because R.M. was still on appellant's payroll as a full-time clerk. R.M. did not return after the detail, as she was reassigned/promoted to another post office. In 2020, appellant was able to hire a new clerk, K.M., but she did not understand the job as well as the prior clerks, and often called in sick. Appellant again reiterated that her workload increased due to staff shortages.

In a statement dated June 8, 2022, D.O. again controverted appellant's claim, contending that she never reported work-related stress. Rather, appellant was going to report to a higher-level assignment at the Sandusky Post Office, effective April 11, 2022. D.O. noted that this post office was much larger and involved two offices reporting to appellant. She submitted e-mails

dated April 5, 2022 which addressed appellant's new assignment to the Sandusky Post Office and her job duties.

OWCP continued to receive medical evidence.

On June 29, 2022 D.O. responded to OWCP's May 27, 2022 development letter. She again noted that appellant's new higher-level position was at a larger post office that had more responsibility for a larger community and more employees, customers, and facilities. D.O. indicated that appellant had 12 employees at the Harbor Beach and Forestville Post Offices, and she would have had 29 employees at the Sandusky Post Office and be responsible for the Carsonville and Snover Post Offices. She indicated that appellant did not miss deadlines, and she had no conflicts and handled customer complaints. D.O. approved her new higher-level assignment. She was not aware that appellant performed much overtime work. In previous years, appellant had volunteered to help other offices, but had not done so since last summer. D.O. acknowledged that there were staff shortages but maintained that appellant did not report any stress. She related that if appellant worked extra hours she could leave early on other days or take a day off using personal leave.

By decision dated July 15, 2022, OWCP accepted that the April 6, 2022 employment incident occurred as alleged, but denied appellant's traumatic injury claim as the medical evidence of record was insufficient to establish causal relationship between the diagnosed medical condition and the accepted April 6, 2022 employment incident.

OWCP subsequently received additional medical evidence.

On August 4, 2022 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. In an accompanying statement dated August 4, 2022, she explained that she kept climbing over the counter on April 6, 2022 because her keys were on the other side of the door that was locked all of the time. Appellant further asserted that D.O. accused of her stealing, but an audit found no shortages. She also claimed that D.O. took her trained employees and assigned them to other post offices. Appellant related that she wanted to try out the detail at the Sandusky Post Office because she would have a supervisor working under her, whereas she had no supervisor at the Harbor Beach/Forestville facilities working for her. She also claimed that she did not sign a release to authorize M.P., a nurse, to obtain her medical history from her doctors. Appellant questioned how M.P. was able to circumvent the Health Insurance Portability and Accountability Act (HIPAA) without a release signed by her. She noted that she had not signed a release.

OWCP subsequently received additional evidence.

Following a preliminary review, by decision dated November 3, 2022, OWCP's hearing representative vacated the July 15, 2022 decision and remanded the case to OWCP for further development of the factual component of appellant's claim. The hearing representative found that OWCP had not considered all of appellant's claimed employment factors. The hearing representative directed OWCP to make a finding of the evidence in consideration of fact of injury and performance of duty detailing the alleged work factors and determining which factors were considered to be compensable, not found to be in the performance of duty, and/or not found to have occurred. Following any further development deemed necessary, OWCP was to issue a new decision regarding fact of injury.

OWCP thereafter continued to receive medical evidence.

OWCP, in a development letter dated December 6, 2022, requested that the employing establishment provide information relevant to appellant's allegations, including comments from a knowledgeable supervisor.

In a December 13, 2022 response, D.O. related that she did not understand why appellant had locked herself out and had to climb in and out of the window three times. She also questioned appellant's allegations that there was a staff shortage at the Harbor Beach and Forestville Post Offices and that she was told to stay within her budget of 36 hours. D.O. maintained that she had no discussion about appellant's budget hours. She further maintained that her budget of 36 hours related to the only employee, a clerk, at the Forestville Post Office. This post office was very small with no carriers and the window was open only four hours per day, Monday through Friday, and three hours on Saturday for a total of 23 hours. Thus, D.O. asserted that 36 hours per week was a very generous budget. She indicated that the budget for the Harbor Beach Post Office was 43 hours per week for clerks, 86 hours per week for city carriers, and 149 hours per week for rural carriers. In response to appellant's allegation that she had to shut down the Forestville Post Office because no extra workers were available from neighboring post offices when a clerk called in sick, D.O. explained that it was difficult to hire employees for all post offices throughout the district during the COVID-19 pandemic and periodically these post offices had to reduce hours or were unable to open. She noted that the clerk in the Forestville Post Office quit in January 2022 after working for a short time. As a result, attempts were made to borrow clerks from other offices, or the postmaster would run the office based on the above-noted nature of the Forestville Post Office. D.O. noted that there were times the post office was open with reduced hours due to a staff shortage. She denied accusing appellant of stealing either verbally or in writing. D.O. maintained that if this were true, the action would have been taken against appellant and no such action was taken against her. She also denied taking R.M. from appellant. D.O. explained that R.M. was promoted to postmaster in April 2020 through the normal promotion channels. She maintained that she had no knowledge about nurse M.P. having any medical information about appellant. Regarding the staff shortage, D.O. related that communication was sent each day to other post offices requesting assistance and when no assistance was available, the postmaster would fill in. Regarding appellant's allegation that her trained employee was moved to other offices, which increased her workload, D.O. related that no trained employees had been moved. She noted that over the last four years, there was a promotion and transfers to other offices, which employees were allowed to do by their union contract and there had been resignations. D.O. denied appellant's allegation that she had to perform additional duties because K.R. was a new employee who did not want to perform the duties performed by appellant. She explained that K.R. was not a new employee as she was hired in May 2019, and, thus had four years of work experience. D.O. noted that it was the postmaster's responsibility to perform the duties identified by appellant as part of his or her official job duties. It was also the postmaster's responsibility to train and instruct employees and then hold them accountable for the performance of their delegated or assigned duties.

OWCP also received February 15, 2023 e-mail in which D.O. reiterated that appellant's workload had not increased. There were two clerk employees, one that was scheduled to work 36 hours per week at the Harbor Beach Post Office, and the other, D.P., who was eager to work additional hours. She noted that timecard reports supported that D.P. was scheduled to work in other offices and was available to work at the Harbor Beach and Forestville Post Offices. D.O.

also noted that as the postmaster, appellant was required to complete up to 15 hours of craft work. She again questioned why she agreed to take a higher-level assignment if she was so overworked and stressed by her job.

By *de novo* decision dated February 17, 2023, OWCP denied appellant's emotional condition claim, finding that she had not established a compensable employment factor. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>5</sup> 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 of FECA,<sup>6</sup> 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 employment injury.<sup>7</sup> 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.<sup>8</sup>

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 every injury or illness that is somehow related to a claimant's employment. There are situations where an injury or illness has some connection with the employment, but nevertheless does not come within the purview of workers' compensation. 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.<sup>10</sup> However, disability is not compensable when it results from factors such as an

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<sup>5</sup> *Supra* note 3.

<sup>6</sup> *C.B.*, Docket No. 21-1291 (issued April 28, 2022); *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>7</sup> *M.H.*, Docket No. 23-0467 (issued February 21, 2024); *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *T.H.*, Docket No. 18-1736 (issued March 13, 2019); *R.C.*, 59 ECAB 427 (2008).

<sup>8</sup> *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *T.E.*, Docket No. 18-1595 (issued March 13, 2019); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>9</sup> *See C.C.*, Docket No. 21-0283 (issued July 11, 2022); *S.K.*, Docket No. 18-1648 (issued March 14, 2019); *Donna Faye Cardwell*, 41 ECAB 730 (1990).

<sup>10</sup> *A.C.*, Docket No. 18-0507 (issued November 26, 2018); *Pamela D. Casey*, 57 ECAB 260, 263 (2005); *Lillian Cutler*, 28 ECAB 125 (1975).

employee's fear of a reduction-in-force, or frustration from not being permitted to work in a particular environment, or to hold a particular position.<sup>11</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>12</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>13</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>14</sup> Mere perceptions of harassment or discrimination are not compensable under FECA.<sup>15</sup>

### ANALYSIS

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

Appellant has attributed her stroke, in part, to the stress of performing her regular or specially assigned duties under *Cutler*.<sup>16</sup> Specifically, she alleged that she was overworked because of chronic understaffing after A.C. retired in 2018 and R.M. left for a detail in 2019 and did not return. In 2020, appellant was able to hire a new clerk, K.M., but she did not understand the job as well as the prior clerks, and often used unscheduled leave. She explained that, as a result, in addition to managing her employees, she had to perform additional duties including dealing with customer complaints, sorting parcels, putting up mail in the box section, and working the window taking care of customers, while at the same time listening to teleconferences and answering calls. Additionally, appellant either had to close the Forestville Post Office when no extra workers could be obtained from neighboring post offices or assume all of the duties herself. She further noted that she drove back and forth between the post offices twice a day, and she also delivered express packages and received complaints regarding customer delivery service. Appellant stated that she had been placed in extremely stressful situations time and time again as she did not have enough workers, and she had been asking for help but was told to figure it out herself. On April 6, 2022, after beginning her day at 6:30 a.m. at the Harbor Beach Post Office, she assumed clerk duties at the Forestville Post Office as no clerks were available to work at that facility. Appellant related that she was locked out of her work area at the Forestville Post Office on that date and had to climb over the counter three times to get back behind the counter. She began to feel tired and called her supervisor, D.O., to get

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<sup>11</sup> *A.E.*, Docket No. 18-1587 (issued March 13, 2019); *Gregorio E. Conde*, 52 ECAB 410 (2001).

<sup>12</sup> *See R.M.*, Docket No. 19-1088 (issued November 17, 2020); *Thomas D. McEuen*, 41 ECAB 387 (1990); *reaff'd on recon.*, 42 ECAB 556 (1991).

<sup>13</sup> *L.R.*, Docket No. 23-0925 (issued June 20, 2024); *M.A.*, Docket No. 19-1017 (issued December 4, 2019).

<sup>14</sup> *See J.C.*, Docket No. 22-0254 (issued November 29, 2022); *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>15</sup> *A.E.*, *supra* note 11; *M.D.*, 59 ECAB 211 (2007); *Robert G. Burns*, 57 ECAB 657 (2006).

<sup>16</sup> *Supra* note 10.

permission to close the Forestville location at 11:06 a.m.; however, D.O. did not return her call until 2:18 p.m., by which time she was unable to drive or make decisions. Appellant's condition worsened at work and she was subsequently transported by ambulance to the hospital. She explained that she felt stressed that week leading up to her April 6, 2022 stroke and asserted that the stress of her job led to high blood pressure and her hemorrhagic stroke.

On June 29, 2022 D.O., appellant's supervisor, controverted appellant's claim, but acknowledged that there were staff shortages at appellant's post offices. She explained that it was difficult to hire employees for all post offices throughout the district during the COVID-19 pandemic and periodically these post offices had to reduce hours or were unable to open. D.O. noted that the clerk in the Forestville Post Office quit in January 2022 after working for only a short time. As a result, attempts were made to borrow clerks from other offices, or the postmaster would run the office based on the above-noted nature of the Forestville Post Office.

The Board has held that overwork, when substantiated by sufficient factual information to corroborate her account of events, may constitute a compensable factor of employment.<sup>17</sup> In light of appellant's description of her duties and responsibilities at understaffed and under supported facilities, as well as the corroboration by M.R., the Board finds that appellant has established a compensable employment factor with respect to her allegation of overwork.<sup>18</sup>

Appellant further alleged that her stroke was due, in part, to stress caused by administrative and personnel matters under *McEuen*,<sup>19</sup> including that D.O. had accused her of stealing and that M.P. improperly obtained her medical history without obtaining a release. However, appellant has not submitted evidence substantiating that these events occurred as alleged. She, therefore, has not shown error or abuse by the employing establishment in these administrative matters. Thus, the Board finds that appellant has not established a compensable factor in this regard.

As OWCP found that there were no compensable employment factors, it did not analyze or develop the medical evidence. Thus, the Board shall set aside OWCP's February 17, 2023 decision and remand the case for consideration of the medical evidence to determine whether appellant has established an emotional condition in the performance of duty causally related to the compensable employment factor of overwork.<sup>20</sup> After this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

### CONCLUSION

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

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<sup>17</sup> *L.S.*, Docket No. 18-1471 (issued February 26, 2020); *R.B.*, Docket No. 19-0343 (issued February 14, 2020); *W.F.*, Docket No. 18-1526 (issued November 26, 2019); *Bobbie D. Daly*, 53 ECAB 691 (2002).

<sup>18</sup> *See M.M.*, Docket No. 23-0009 (issued December 15, 2023); *F.T.*, Docket No. 21-0489 (issued September 8, 2022); *L.Y.*, Docket No. 20-1108 (issued November 24, 2021).

<sup>19</sup> *Supra* note 12.

<sup>20</sup> *K.M.*, Docket No. 22-1000 (issued November 9, 2022); *E.A.*, Docket No. 19-0582 (issued April 22, 2021).



**ORDER**

**IT IS HEREBY ORDERED THAT** the February 17, 2023 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: October 30, 2024  
Washington, DC

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

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board