



attack and mental distress while in the performance of duty. She related that her day started out normal until she suggested to her coworker, later identified as C.H., that he work the front desk. C.H. refused to move, and his tone and demeanor were very triggering, which caused a panic attack. Appellant related that she had ongoing issues with C.H..<sup>2</sup> She stopped work on January 18, 2024.

In a development letter dated January 30, 2024, OWCP informed her of the factual and medical evidence necessary to establish her claim and attached a questionnaire for her completion. It noted that it was unclear from the evidence received whether appellant was claiming an occupational disease or traumatic injury. OWCP afforded appellant 60 days to submit the requested information. In a separate development letter of even date, it requested that the employing establishment provide comments from a knowledgeable supervisor regarding appellant's allegations. OWCP afforded the employing establishment 30 days to submit the requested information.

In a November 7, 2023 e-mail, appellant described her concerns about C.H. She recounted that another coworker had indicated that C.H. had indicated on social media that he was pulling all the weight, which was untrue. Appellant related that other coworkers were also stressed due to the disruption in their work environment due to C.H. The uncertainty of whether C.H. would have a good or bad day caused stress to appellant and the team.

In a November 8, 2023 redacted memorandum, S.C., a supervisor related that a fact-finding meeting was held that day with appellant and D.S., human resource specialist, regarding C.H.'s inappropriate interactions and communications. During this meeting, appellant related that C.H. would leave work early after he had a disagreement and that he left on Friday without having his schedules or numbers printed. She alleged that: she noticed his incorrect notes in the system; that he had more mistakes than normal; that he was falling behind on his tasks; that he refused to help a veteran who came in for a check-in; that he had previously failed to correctly schedule an appointment for a veteran; and that he had not handled faxes for a few weeks. During a November 3, 2023 meeting, C.H. became upset when he learned that their team would not be getting five new members.

In a January 19, 2024 e-mail to her supervisor, appellant further addressed her concerns regarding C.H. whom she alleged caused her panic attack. She explained that she was struggling to work with a team member who always wanted to do things his way and cut corners on things. Appellant related that on the prior day she was working the front desk, but she had no patients so she asked C.H. to cover the front desk so that another individual he was working with, C., could get some experience. C.H. refused her request to work the front desk. Next, appellant alleged that C.H. was unable to get complete paperwork for a transfer, so she helped him. She alleged he added wrong scheduling notes, and he requested her to help with address changes. Appellant alleged that C.H. was nowhere to be found when needed. She further indicated that he was unable to discuss his feeling in a rational manner and would become defensive when he disagreed with a coworker, and he complained when new tasks or changes were assigned.

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<sup>2</sup> Appellant did not identify the coworker.

In a January 20, 2024 provider note, Christopher Prigge, a physician assistant, related that appellant was seen that day at the emergency department for a mental health evaluation. He noted that appellant had a history of major depressive disorder and generalized anxiety. Appellant related a worsening of her depression and anxiety since November 8, 2023, due to many life stressors, but especially work stressors.

In a psychiatric consultation note also dated January 20, 2024, Tyler King, a physician assistant, noted a history of appellant's present illness and provided examination findings. Appellant related an increase in her anxiety over the past two to three months to the point she felt she might be unable to function at work. Dr. King diagnosed generalized anxiety disorder with panic attacks and unspecified depression.

In progress notes dated January 20, 2024, Samatalis H. Haille, a psychotherapist, performed a mental status examination and provided psychotherapy techniques and interventions. He concurred with the diagnoses of unspecified depression and generalized anxiety disorder with panic attack.

In progress notes dated January 22, 2024, Dr. Elizabeth A. Bevier, an osteopathic Board-certified family practitioner provided a history of appellant's anxiety. She opined that appellant had been in denial of her severe anxiety symptoms when they began two years ago. In a January 22, 2024 note, Dr. Bevier requested that appellant be excused from work from January 18 to 29, 2024.

In a response to OWCP's questionnaire, appellant related that prior to the January 18, 2024 incident she and two coworkers had notified supervisors of C.H.'s constant outbursts, negativity, anger, and inability to do his job which caused mental distress for the team. She related that on January 18, 2024 her provider was not in the clinic, therefore she had no patients scheduled that day. Appellant usually sat at the front desk, in a very busy area, but because C.H. had a trainee, she asked him to sit up front with his trainee so the trainee could get experience with a busy work environment. C.H. became defensive and told her that he felt like he was being constantly pushed around, which had to stop. He refused appellant's request to move to the front. At this point appellant messaged her supervisor and she took her computer to a vacant office to have a Teams meeting with her supervisor to discuss the situation. Following the meeting with her supervisor appellant had a panic attack due to the constant situations occurring with C.H. and the feeling that nothing was done to correct his behavior. She alleged that C.H. was causing a toxic work environment.

Dr. Elizabeth A. Sikes, a Board-certified psychiatrist, in a January 29, 2024 note, advised that appellant had been under her care for depression and generalized anxiety with panic attacks since 2013. She reported a dramatic worsening of her depression and anxiety beginning in November 2023. Dr. Sikes attributed the worsening of these conditions to stress from working with a coworker appellant indicated had unpredictable anger outbursts, labile and unpredictable moods. Appellant had also indicated an increase in her workload due to coworkers refusing to deal with him, and his abruptly leaving work causing his work to be reassigned to appellant. Dr. Sikes concluded that appellant experienced a recurrence of her panic attacks and depression in addition to a dramatic worsening of her anxiety disorder.

In psychiatric progress notes also dated January 29, 2024, Dr. Sikes diagnosed general anxiety disorder, panic disorder, and moderate major depressive disorder. She related that appellant reached out in November 2023 as her anxiety was exacerbated by a coworker. Appellant related that she reached out to her supervisor about her work situation, however, the situation worsened to the point that she sought treatment on January 20, 2024.

In a January 29, 2024 work/school excuse letter, Dr. Sikes requested appellant be excused from work for the period January 29 to February 18, 2024 due to illness.

In a February 2, 2024 witness statement, B.V. related that on January 18, 2024 appellant and C.H. were involved in an altercation that she did not witness. B.V. stated that this was not the first time that C.H. made appellant feel frustrated and distraught. She concluded that C.H.'s anxiety wore off on everyone, when he was upset everyone was impacted.

In an employing establishment response dated February 6, 2024, S.C. stated that the employing establishment did not concur with appellant's allegations. She noted that coworkers could decide between themselves who would fill the front desk each day. There was no requirement that desk spaces be switched while training new employees or if the provider did not have patients coming in that day. S.C. further related that there appeared to be a misunderstanding regarding coverage on January 18, 2024, and whether there was a need to move to the front desk. She noted that there were no witnesses to the January 18, 2024 incident between appellant and a coworker.

On February 7, 2024 Dr. Sikes released appellant to return to work without restrictions on February 13, 2024.

On February 8, 2024 appellant requested her claim be considered as an occupational disease claim rather than traumatic injury because the injury involved incidents occurring over a period of time rather than in a single day.

On April 18, 2024 OWCP received copies of a number of e-mails from appellant regarding workflow from the flu clinic, and continued reiteration of the complaints regarding her coworker, C.H.

A November 6, 2023 e-mail with a redacted sender's name, stated that teams 2 and 3 had been dealing with a coworker and his mental status for over two months. The e-mail related coworkers have been fixing his mistakes and covering his work, that he was not completely processing his work, he was making a lot of mistakes, and that he was rude to patients. The e-mail concluded that coworkers were upset with this individual's actions and words.

By decision dated July 17, 2024, OWCP converted appellant's traumatic injury claim to an occupational disease claim and denied it, finding that she had failed to establish any compensable factors of employment. Therefore, it concluded that the requirements had not been met to establish an emotional condition in the performance of duty.

## **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> has the burden of proof to establish the essential elements of his or her claim,<sup>4</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>5</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>6</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>7</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>8</sup>

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment.<sup>9</sup> There are situations where an injury or an illness has some connection with the employment, but nevertheless does not come within the concept or coverage of workers' compensation. 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>10</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

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<sup>3</sup> *Id.*

<sup>4</sup> *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); *O.G.*, Docket No. 18-0359 (issued August 7, 2019); *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

<sup>5</sup> *T.B.*, Docket No. 25-0018 (issued November 4, 2024); *S.S.*, Docket No. 19-1021 (issued April 21, 2021); *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>6</sup> *B.K.*, *supra* note 4; *L.G.*, *supra* note 4.; *S.S.*, *id.*; *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>7</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).

<sup>8</sup> *See B.K.*, *id.*; *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>9</sup> *See B.K.*, *id.*; *L.D.*, 58 ECAB 344 (2007); *Robert Breeden*, 57 ECAB 622 (2006).

<sup>10</sup> *See B.K.*, *id.*; *S.K.*, *supra* note 8; *D.T.*, Docket No. 19-1270 (issued February 4, 2020); *Thomas D. McEuen*, 41 ECAB 387 (1990).

his or her frustration from not being permitted to work in a particular environment, or to hold a particular position.<sup>11</sup>

Appellant's burden of proof includes the submission of a detailed description of the employment factors which he or she believes caused or adversely affected a condition for which compensation is claimed.<sup>12</sup> 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.<sup>13</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>14</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>15</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 not attributed her condition to the performance of her regularly or specially assigned duties under *Cutler*.<sup>16</sup> Instead, she maintained that a coworker, C.H., created a hostile work environment by his behavior and that management did not address the issues raised by appellant and other coworkers.

Appellant initially filed her claim as a traumatic injury based on a January 18, 2024 incident when she suggested to her coworker that he move to a front desk, and he refused. She subsequently requested that her claim be considered as an occupational disease claim rather than a traumatic injury because other incidents had occurred with the coworker over a period of time rather than in a single day.

In a letter dated February 6, 2024, S.C. noted there were no witnesses to the January 18, 2024 incident and that there appeared to be a misunderstanding regarding front desk coverage.

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<sup>11</sup> See *B.K., id.*; *Gregorio E. Conde*, 52 ECAB 410 (2001).

<sup>12</sup> *J.M.*, Docket No. 24-0268 (issued May 21, 2024); *P.T.*, Docket No. 14-0598 (issued August 5, 2014).

<sup>13</sup> *P.B.*, Docket No. 23-0548 (issued October 30, 2024); *L.S.*, Docket No. 18-1471 (issued February 26, 2020).

<sup>14</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>15</sup> *L.R.*, Docket No. 23-0925 (issued June 20, 2024); *M.A.*, Docket No. 19-1017 (issued December 4, 2019).

<sup>16</sup> See *S.K.*, *supra* note 8; *D.T.*, Docket No. 19-1270 (issued February 4, 2020); *Thomas D. McEuen*, *supra* note 14; *Trudy A. Scott*, 52 ECAB 309 (2001); *Lillian Cutler*, 28 ECAB 125 (1976).

She explained that coworkers could decide between themselves who would cover the front desk, that training an individual or having a greater patient load on that day did not determine coverage.

Mere perceptions of harassment are not compensable under FECA, and unsubstantiated allegations are not determinative of whether harassment occurred. A claimant must establish a factual basis for allegations with probative and reliable evidence.<sup>17</sup> The Board finds that appellant's perception of a hostile work environment on January 18, 2024 is not substantiated by the record.

The remainder of appellant's allegations concern issues with her coworker C.H. Verbal altercations and difficult relationships with coworkers, when sufficiently detailed and supported by the record, may constitute compensable factors of employment.<sup>18</sup> The witness statements that appellant submitted fail to provide sufficient corroborative detail, regarding the dates and circumstances, supporting appellant's allegations. The Board therefore finds that appellant did not submit sufficient corroborative evidence to establish her allegations.<sup>19</sup>

Appellant has also alleged that management's failure to deal with the coworker, C.H., caused her stress. The Board has held that an employee's dissatisfaction with perceived poor management is not compensable under FECA.<sup>20</sup> If the evidence does not demonstrate that the employing establishment either erred or acted abusively in discharging its administrative or personnel responsibilities, the alleged action will not be considered a compensable employment factor.<sup>21</sup> The evidence of record indicates that appellant was allowed to voice her concerns to management regarding her coworker C.H. Appellant has not established any evidence establishing error or abuse by the employing establishment in handling this personnel matter.

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>22</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.

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<sup>17</sup> See *S.W.*, Docket No. 24-0954 (issued November 15, 2024); *James E. Norris*, 52 ECAB 93 (2000).

<sup>18</sup> *C.B.*, Docket No. 20-1259 (issued July 15, 2022); *S.F.*, Docket No. 20-0249 (issued December 31, 2020); *J.M.*, Docket No. 16-0717 (issued January 12, 2017).

<sup>19</sup> *V.H.*, Docket No. 22-0882 (issued June 9, 2023); *K.W.*, Docket No. 20-0832 (issued June 21, 2022).

<sup>20</sup> *Randy D. Epps*, Docket No. 05-1555 (issued December 13, 2005); *Barbara J. Latham*, 53 ECAB 316 (2002).

<sup>21</sup> *Supra* note 14.

<sup>22</sup> See *A.M.*, Docket No. 24-0287 (issued October 8, 2024); *B.O.*, Docket No. 17-1986 (issued January 18, 2019) (finding that 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).

**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.

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 17, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 10, 2025  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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