

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of JOAN A. GLASS and U.S. POSTAL SERVICE,  
POST OFFICE, Philadelphia, Pa.

*Docket No. 97-1217; Submitted on the Record;  
Issued November 27, 1998*

---

DECISION and ORDER

Before MICHAEL J. WALSH, BRADLEY T. KNOTT,  
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs properly denied appellant's request for reconsideration on the grounds that it was untimely filed and failed to demonstrate clear evidence of error.

The Board has duly reviewed the case record in the present appeal and finds that the Office properly denied appellant's request for reconsideration as it was untimely filed and failed to present clear evidence of error.

On August 29, 1989 appellant, then a 33-year-old regular carrier, filed a claim alleging that on that day while delivering mailed she twisted her left ankle when she stepped onto a porch. The Office accepted appellant's claim for a sprain of the left ankle. On November 30, 1994 appellant filed a claim for a recurrence of disability, Form CA-2a, claiming that on November 25, 1994 she experienced pain in her left ankle, which was the same as the pain she suffered at the time of the original injury. By decision dated March 8, 1995, the Office denied appellant's claim on the grounds that the evidence of record failed to establish that the claimed recurrent medical condition was causally related to the accepted August 29, 1989 left ankle sprain. By letter dated January 7, 1997 and received by the Office on January 10, 1997, appellant requested reconsideration. The letter was accompanied by a medical report dated December 7, 1994 by Dr. Margaret A. Guest, an osteopath. Dr. Guest's report had previously been received and considered. By decision dated January 17, 1997, the Office denied appellant's reconsideration request as untimely filed and found that appellant failed to present clear evidence of error on the part of the Office.

The Office, through regulations, has imposed limitations on the exercise of its discretionary authority under section 8128(a).<sup>1</sup> The Office will not review a decision denying or terminating a benefit unless the application for review is filed within one year of the date of that

---

<sup>1</sup> 5 U.S.C. § 8128(a).

decision.<sup>2</sup> When an application for review is untimely, the Office undertakes a limited review to determine whether the application presents clear evidence that the Office's final merit decision was in error.<sup>3</sup>

The Board finds that, since more than one year has elapsed from the date of issuance of the Office's May 8, 1995 merit decision to the date that appellant's request for reconsideration was filed, January 10, 1997, appellant's request for reconsideration was untimely. The Board further finds that the evidence submitted by appellant in support of the request for reconsideration does not raise a substantial question as to the correctness of the Office's March 8, 1995 merit decision and is of insufficient probative value to *prima facie* shift the weight of the evidence in favor of appellant's claim. In this regard, appellant submitted a medical report dated December 7, 1994 by Dr. Guest, an osteopath. The Board notes that this report was previously of record and had been considered by the Office in the issuance of its March 8, 1995 decision. Since this evidence was repetitious and duplicative of that already contained in the case record, it is of no evidentiary value.<sup>4</sup>

As appellant has not, by the submission of factual and medical evidence, raised a substantial question as to the correctness of the Office's March 8, 1995 decision, she has failed to establish clear evidence of error and the Office did not abuse its discretion in denying a merit review of her claim.

The decision of the Office of Workers' Compensation Programs dated January 17, 1997 is affirmed.

Dated, Washington, D.C.  
November 27, 1998

Michael J. Walsh  
Chairman

Bradley T. Knott  
Alternate Member

A. Peter Kanjorski  
Alternate Member

---

<sup>2</sup> 20 C.F.R. § 10.138(b)(2); *see also Gregory Griffin*, 41 ECAB 186 (1989), *petition for recon. denied*, 41 ECAB 458 (1990).

<sup>3</sup> *Thankamma Mathews*, 44 ECAB 765 (1993); *Jesus D. Sanchez*, 41 ECAB 964 (1990).

<sup>4</sup> *See Eugene F. Butler*, 36 ECAB 393, 398 (1984) (finding that evidence that repeats or duplicated evidence already in the case record has no evidentiary value and does not constitute a basis for reopening a case.)