

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DEBRA Y. BUTTS and DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE, Richmond, VA

*Docket No. 98-1756; Submitted on the Record;
Issued March 16, 2000*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has established that the Office of Workers' Compensation Programs' determination of her wage-earning capacity in a data entry position should be modified.

The Board has given careful consideration to the issue involved, the contentions of the parties on appeal and the entire case record. The Board finds that the March 27, 1998 decision of the Office is in accordance with the facts and the law in this case and hereby adopts the findings and conclusions of the hearing representative.¹

¹ Appellant failed to meet her burden of proof under the Federal Employees' Compensation Act that the Office's May 16, 1994 decision that the data entry position reflected her wage-earning capacity should be modified. The medical reports appellant submitted from her treating physician, Dr. Kenneth L. Izzo, a Board-certified physiatrist, dated November 13, 1996 through March 2, 1998 and from Dr. Sofia Lam, a Board-certified anesthesiologist, dated April 7, 1997 did not show that her back condition had undergone a material change since 1994 or provide a rationalized medical opinion to show that the worsening of her back condition was work related; *see Don J. Mazurek*, 46 ECAB 447, 451 (1995); *Louise G. Malloy*, 45 ECAB 613, 617 (1994).

The decision of the Office of Workers' Compensation Programs dated March 27, 1998 is hereby affirmed.

Dated, Washington, D.C.
March 16, 2000

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member