

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROBERT E. NEILL and DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION, Washington, DC

*Docket No. 00-643; Submitted on the Record;
Issued January 9, 2001*

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

The issue is whether the Office of Workers' Compensation Programs abused its discretion in refusing to reopen appellant's case for further consideration of the merits of his claim under 5 U.S.C. § 8128(a).

The Board has duly reviewed the record and finds that the Office acted within its discretion in refusing to reopen appellant's case for further merit review of his claim.

On April 16, 1981 appellant, then a 53-year-old agent, filed a an occupational disease claim alleging that he sustained a hearing loss due to exposure to noise during his federal employment. By decision dated January 7, 1983, the Office accepted appellant's claim for a noise-induced high frequency hearing loss, but found the extent of hearing loss to be nonratable. By letter dated August 9, 1999, appellant requested reconsideration of the January 7, 1983 decision. By decision dated November 5, 1999, the Office denied review of the prior decision.

The Board's jurisdiction to consider and decide appeals from final decisions of the Office extends only to those final decisions issued within one year prior to the filing of the appeal.¹ Because more than one year has elapsed between the issuance of the Office's January 7, 1983 decision and November 18, 1999, the date appellant filed his appeal with the Board, the Board lacks jurisdiction to review the January 7, 1983 decision and any preceding decisions. Therefore, the only decision before the Board is the Office's November 5, 1999 nonmerit decision denying appellant's application for a review of its January 7, 1983 decision.

To require the Office to reopen a case for merit review, section 10.606 provides that a claimant may obtain review of the merits of his or her claim by written request to the Office identifying the decision and setting forth arguments or submitting evidence that either: (1) shows that the Office erroneously applied or interpreted a specific point of law; (2) advances a

¹ *Oel Noel Lovell*, 42 ECAB 537 (1991); 20 C.F.R. §§ 501.2(c), 501.3(d)(2).

relevant legal argument not previously considered by the Office; or (3) constitutes relevant and pertinent new evidence not previously considered by the Office.² When a claimant fails to meet at least one of the above standards, the Office will deny the application for review without reviewing the merits of the claim.³

In support of the August 9, 1999 request for reconsideration, appellant submitted various documents previously of record. Evidence that repeats or duplicates evidence already in the case record has no evidentiary value and does not constitute a basis for reopening a case.⁴

As appellant's August 9, 1999 request for reconsideration does not meet at least one of the three requirements for obtaining a merit review, the Board finds that the Office acted within its discretion in denying that request.

The decision of the Office of Workers' Compensation Programs dated November 5, 1999 is affirmed.

Dated, Washington, DC
January 9, 2001

David S. Gerson
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member

² 20 C.F.R. § 10.606(a); *see generally* 5 U.S.C. § 8128.

³ 20 C.F.R. § 10.608(a).

⁴ *Eugene F. Butler*, 36 ECAB 393, 398 (1984).