

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

C.S., Appellant)

and)

U.S. POSTAL SERVICE, BEAUMONT)
ENCODING CENTER, Beaumont, TX,)
Employer)

**Docket No. 07-148
Issued: July 20, 2007**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On October 23, 2006 appellant filed a timely appeal of a decision of the Office of Workers' Compensation Programs dated July 21, 2006 which denied merit review. Because more than one year has elapsed between the most recent merit decision dated May 23, 2005 and the filing of this appeal, pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d)(2), the Board lacks jurisdiction to review the merits of appellant's claim.

ISSUE

The issue is whether the Office properly refused to reopen appellant's claim for merit review pursuant to 5 U.S.C. § 8128(a).

FACTUAL HISTORY

This case has previously been before the Board. In a May 23, 2005 decision, the Board found that appellant failed to meet her burden of proof to establish that she sustained an

employment-related emotional condition causally related to accepted employment factors.¹ By order dated August 5, 2005, the Board denied appellant's petition for reconsideration. The law and the facts of the case as set forth in the previous Board decision are incorporated herein by reference.

On May 13, 2006 appellant requested reconsideration before the Office. She submitted duplicates of evidence previously of record, including February 8 and April 3, 2002 reports from Dr. Ramaswamy Lakshmanan, an April 11, 2002 report from Dr. Rejen Desai, a work capacity evaluation dated August 8, 2002 and a second opinion evaluation dated September 3, 2002 from Dr. Jorge A. Raichman and a June 10, 2003 report from Dr. Ravikumar Kanneganti. By decision dated July 21, 2006, the Office denied appellant's reconsideration request.

LEGAL PRECEDENT

Section 8128(a) of the Federal Employees' Compensation Act² vests the Office with discretionary authority to determine whether it will review an award for or against compensation, either under its own authority or on application by a claimant.³ Section 10.608(a) of the Code of Federal Regulations provides that a timely request for reconsideration may be granted if the Office determines that the employee has presented evidence and/or argument that meets at least one of the standards described in section 10.606(b)(2).⁴ This section provides that the application for reconsideration must be submitted in writing and set forth arguments and contain evidence that either: (i) shows that the Office erroneously applied or interpreted a specific point of law; or (ii) advances a relevant legal argument not previously considered by the Office; or (iii) constitutes relevant and pertinent new evidence not previously considered by the Office.⁵ Section 10.608(b) provides that, when a request for reconsideration is timely but fails to meet at least one of these three requirements, the Office will deny the application for reconsideration without reopening the case for a review on the merits.⁶

ANALYSIS

The only decision before the Board in this appeal is the July 21, 2006 Office decision denying appellant's application for review. Because more than one year had elapsed between the date of the last recent merit decision in the case, the Board's May 23, 2005 decision and the filing of this appeal on October 23, 2006, the Board lacks jurisdiction to review the merits of her claim.⁷

¹ Docket No. 03-1885 (issued May 25, 2005).

² 5 U.S.C. §§ 8101-8193.

³ 5 U.S.C. § 8128(a).

⁴ 20 C.F.R. § 10.608(a).

⁵ 20 C.F.R. § 10.608(b)(1) and (2).

⁶ 20 C.F.R. § 10.608(b).

⁷ 20 C.F.R. § 501.3(d)(2).

With her May 13, 2006 reconsideration request, appellant merely contended that the Board had made errors in its May 23, 2005 decision.⁸ She did not allege or demonstrate that the Office erroneously applied or interpreted a specific point of law or advance a relevant legal argument not previously considered by the Office. Consequently, she was not entitled to a review of the merits of her claim based on the first and second above-noted requirements under section 10.606(b)(2).⁹

With respect to the third above-noted requirement under section 10.606(b)(2), appellant submitted duplicate evidence in support of her request for reconsideration. The medical reports and other evidence submitted had previously been reviewed by the Board and the Office. 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.¹⁰ As appellant did not submit relevant and pertinent new evidence not previously considered by the Office, the Office properly denied her reconsideration request.

CONCLUSION

The Board finds that the Office properly refused to reopen appellant's case for further consideration of the merits of her claim pursuant to 5 U.S.C. § 8128(a).

⁸ A decision of the Board is final upon the expiration of 30 days from the date of the decision. *Joseph A. Brown, Jr.*, 55 ECAB 542 (2004). In this case, the Board denied appellant's petition for reconsideration on August 5, 2005.

⁹ 20 C.F.R. § 10.606(b)(2).

¹⁰ *James W. Scott*, 55 ECAB 606 (2004).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated July 21, 2006 be affirmed.

Issued: July 20, 2007
Washington, DC

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

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board