



factor with respect to the June 3, 2004 altercation.<sup>1</sup> Thus, the Board affirmed in part and set aside in part the July 31, 2006 decision, which denied appellant's request for modification of a July 28, 2005 Office decision denying his emotional condition claim. As a compensable factor had been established with regard to the June 3, 2004 altercation, the Board remanded the case to the Office for further development of the medical evidence. In the second appeal, the Board on October 8, 2008 affirmed a January 9, 2008 Office decision.<sup>2</sup> The Office in its January 9, 2008 decision denied appellant's claim for wage-loss disability on and after March 21, 2005. The findings of law and fact as set forth in the prior opinions are hereby incorporated by reference.<sup>3</sup>

On November 17, 2008 appellant filed a claim for wage-loss compensation for the period March 22 to August 22, 2006.

In a letter dated December 11, 2008, appellant requested reconsideration of the denial of his claim for wage loss on and after March 21, 2005. He contended that he submitted sufficient medical evidence to support his claim and that the employing establishment terminated his employment because of his disability. Appellant alleged that he was assaulted while working for the employing establishment and that as a result was unable to work in a stressful work environment.

On December 30, 2008 appellant provided a second statement which noted that he had been assaulted while working at a prior job and that the assault at the employing establishment caused a recurrence of his post-traumatic stress disorder.

By decision dated March 2, 2009, the Office denied appellant's request for reconsideration of the merits on the grounds that he failed to raise a substantive legal question or present relevant evidence.

### **LEGAL PRECEDENT**

The Federal Employees' Compensation Act<sup>4</sup> provides that the Office may review an award for or against payment of compensation at any time on its own motion or upon application.<sup>5</sup> The employee shall exercise this right through a request to the district Office. The request, along with the supporting statements and evidence, is called the application for reconsideration.<sup>6</sup>

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<sup>1</sup> Docket No. 06-1983 (issued March 12, 2007). The Office incorrectly noted the author date as March 13, 2007.

<sup>2</sup> Docket No. 08-773 (issued October 8, 2008).

<sup>3</sup> On November 26, 2004 appellant filed an occupational disease claim alleging that on or about June 3, 2004 he first realized his depression was employment related. He stopped work on November 24, 2004, returned on January 9, 2005 and stopped again on February 14, 2005. On March 17, 2005 appellant was terminated from employment based on his "inability to perform essential functions -- working in a stressful environment."

<sup>4</sup> 5 U.S.C. § 8101 *et seq.*

<sup>5</sup> *Id.* at § 8128(a). See *Tina M. Parrelli-Ball*, 57 ECAB 598 (2006).

<sup>6</sup> 20 C.F.R. § 10.605.

An employee (or representative) seeking reconsideration should send the application for reconsideration to the address as instructed by the Office in the final decision. The application for reconsideration, including all supporting documents, must be in writing and must set forth arguments and contain evidence that either: (1) shows that the Office erroneously applied or interpreted a specific point of law; (2) advances a relevant legal argument not previously considered by the Office; or (3) constitutes relevant and pertinent new evidence not previously considered by the Office.<sup>7</sup>

An application for reconsideration must be sent within one year of the date of the Office decision for which review is sought.<sup>8</sup> A timely request for reconsideration may be granted if the Office determines that the employee has presented evidence or argument that meets at least one of these standards. If reconsideration is granted, the case is reopened and the case is reviewed on its merits. Where the request is timely but fails to meet at least one of these standards, the Office will deny the application for reconsideration without reopening the case for a review on the merits.<sup>9</sup>

### **ANALYSIS**

In support of his December 11, 2008 reconsideration request, appellant submitted two statements, copies of Office regulations and general information on post-traumatic stress disorder. Appellant's December 11, 2008 request for reconsideration neither alleged, nor demonstrated that the Office erroneously applied or interpreted a specific point of law. Additionally, he did not advance a relevant legal argument not previously considered by the Office. Appellant did not submit any pertinent new and relevant evidence with his request for reconsideration. The issue to be resolved is a medical one and he did not submit any medical evidence with his request. Consequently, appellant is not entitled to a review of the merits of his claim based on the above-noted requirements under section 10.606(b)(2).

The Board finds that the Office properly determined that appellant was not entitled to further consideration of the merits of his claim pursuant to any of the three requirements under 20 C.F.R. § 10.606(b)(2), and thus the Office properly denied his December 11, 2008 request for reconsideration.

### **CONCLUSION**

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

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<sup>7</sup> *Id.* at § 10.606. See *Susan A. Filkins*, 57 ECAB 630 (2006).

<sup>8</sup> *Id.* at § 10.607(a). See *Joseph R. Santos*, 57 ECAB 554 (2006).

<sup>9</sup> *Id.* at § 10.608(b). See *Candace A. Karkoff*, 56 ECAB 622 (2005).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated March 2, 2009 is affirmed.

Issued: November 24, 2009  
Washington, DC

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

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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