U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board
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In the Matter of MAUREEN A. SEY <u>and</u> AGENCY FOR INTERNATIONAL
DEVELOPMENT, Washington, D.C.

Docket No. 97-2080; Submitted on the Record;
Issued April 1, 1999
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DECISION and ORDER

Before   MICHAEL J. WALSH, GEORGE E. RIVERS,
MICHAEL E. GROOM

The issue is whether the Office of Workers' Compensation Programs properly denied appellant's February 25, 1994 request for reconsideration.

In a decision dated May 13, 1988, the Office denied appellant's claim on the grounds that she had failed to establish a causal relationship between her illness and factors of her employment. In an attached statement of review rights, the Office notified appellant that any request for reconsideration must be made within one year of the date of the decision. In a decision dated July 24, 1989, the Board found that appellant had not established that her condition on or after September 17, 1987 was causally related to factors of her federal employment.[1]

On April 4, 1991 appellant requested reconsideration. The Office advised that there was no basis for reopening a denied case. Appellant submitted medical evidence and on November 6, 1991 again requested that her claim be reopened. In a decision dated December 12, 1991, the Office denied appellant's request on the grounds that it was untimely and did not present clear evidence that the Office's final merit decision was erroneous.

On February 25, 1997 appellant again requested reconsideration. She stated that she believed an error was made by not awarding her compensation. She advised the Office that she would be sending in some evidence.

In a decision dated May 30, 1997, the Office denied appellant's request on the grounds that her request neither raised substantive legal questions nor included new and relevant evidence and was insufficient to warrant a review of the prior decision.

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[1] *See* Docket No. 89-519. The facts of the case, as set forth in the Board's prior decision, are incorporated by reference.

The Board finds that the Office properly denied appellant's request.

The Office, through regulations, has imposed limitations on the exercise of its discretionary authority under 5 U.S.C. § 8128(a). 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 decision.[2] When an application for review is untimely, the Office undertakes a limited review to determine whether the application presents clear evidence of error that the Office's final merit decision was in error.[3]

Appellant filed her February 25, 1997 request for reconsideration more than seven and a half years after the most recent decision on the merits of her case. It is therefore untimely. Appellant submitted no evidence to support her request and her stated belief that an error was made by not awarding her compensation does not raise a substantial question as to the correctness of the Office's decision. Appellant's February 25, 1997 request is of insufficient probative value to *prima facie* shift the weight of the evidence in favor of her claim.

As appellant's untimely request fails to show clear evidence of error, the Office did not abuse its discretion in denying a merit review of the case.[4]

The May 30, 1997 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
      April 1, 1999

Michael J. Walsh
Chairman

George E. Rivers
Member

Michael E. Groom
Alternate Member

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[2] 20 C.F.R. § 10.138(b)(2); *Gregory Griffin*, 41 ECAB 186 (1989); *petition for recon. denied*, 41 ECAB 458 (1990).

[3] *Thankamma Mathews*, 44 ECAB 765 (1993); *Jesus D. Sanchez*, 41 ECAB 964 (1990).

[4] In denying appellant's request, the Office applied the standard of new and relevant evidence or argument, which should be applied only to timely requests. Even under this standard, however, appellant's request for reconsideration would not have entitled her to a merit review of her case as she failed to support her request with new and relevant evidence or argument.