

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ANGEL F. VEGA and DEPARTMENT OF THE ARMY,
ARMY NATIONAL GUARD, 225TH MILITARY POLICE COMPANY,
Ponce, PR

*Docket No. 98-1931; Submitted on the Record;
Issued April 24, 2000*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

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

On February 23, 1990 appellant, then a 32-year-old supply clerk, was pushing a wood locker when he slipped and fell, sustaining an injury to his left wrist. Appellant received continuation of pay from March 23 through May 7, 1990. He used sick and annual leave from May 8 through September 25, 1990. In a July 5, 1990 report, Dr. Eduardo Amy Torres diagnosed a possible injury to the scapholunate ligament complex of the left wrist. The Office accepted appellant's claim for contusion and fracture of the left wrist. The Office began payment of temporary total disability compensation effective September 26, 1990. In a June 28, 1991 report, Dr. John McAuliffe, a Board-certified orthopedic surgeon specializing in hand surgery, diagnosed a scapholunate dissociation. Appellant underwent surgery on August 29, 1991, consisting of a left scapholunate arthrodesis with bone graft. In a June 19, 1992 decision, the Office issued a schedule award for a 34 percent permanent impairment of the left arm. Upon expiration of the schedule award, the Office again paid temporary total disability compensation. Appellant underwent additional surgery on his wrist in January 1993. He attempted to return to light-duty work in October 1993 but stopped shortly after he began working. His position with the employing establishment was terminated April 11, 1994.

In a May 17, 1996 decision, the Office found that appellant could perform the duties of a credit clerk and, therefore, had a 66 percent loss of wage-earning capacity. The Office, therefore, reduced appellant's compensation accordingly. In a June 14, 1996 letter, appellant requested a hearing before an Office hearing representative, which was conducted on November 21, 1996. In a February 11, 1997 decision, the Office hearing representative affirmed the May 17, 1996 decision of the Office. In a February 8, 1998 letter, appellant requested reconsideration. In an April 22, 1998 decision, the Office denied appellant's request for

reconsideration on the grounds that the request was vague and not specific and, therefore, insufficient to require further development of appellant's claim.

The Board's jurisdiction extends to final decisions of the Office issued within one year prior to the filing of an appeal to the Board.¹ In this case, appellant's appeal was filed on June 2, 1998. The Board, therefore, has jurisdiction to consider only the Office's April 22, 1998 decision.

The Board finds that the Office did not abuse its discretion in denying appellant's request for reconsideration.

Section 8128(a) of the Federal Employees' Compensation Act 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. Under 20 C.F.R. § 10.138(b)(1), a claimant may obtain review of the merits of his claim by showing that the Office erroneously applied or interpreted a point of law, advancing a point of law or fact not previously considered by the Office, or submitting relevant and pertinent evidence not previously considered by the Office. Section 10.138(b)(2) provides that when an application for review of the merits of a claim does not meet at least one of these three requirements, the Office will deny the application for review without reviewing the merits of the claim.² 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.³ Evidence that does not address the particular issue involved also does not constitute a basis for reopening a case.⁴

In his request for reconsideration, appellant contended that the Office had not received prior letters he had submitted disputing the Office's decision to reduce his compensation. He claimed that the material he was submitting would document the need of medical attention and treatment for his employment injury and the constant rejection of his requests for such attention and treatment. Appellant submitted numerous documents in support of his request, all of which had been submitted previously, even the letters that he contended the Office apparently had not received because officials of the Office had not acknowledged the letters. Appellant's arguments did not address the issue in the Office's decision, whether it had properly determined that he could perform the duties of a credit clerk and, therefore, had a 66 percent loss of wage-earning capacity. Appellant did not submit any new evidence to show that he was unable to perform the job of credit clerk for medical or vocational reasons or that the Office had erred in finding that the job was reasonably available within his commuting area. The evidence submitted by appellant was duplicative of that previously submitted and, therefore, was insufficient to require the Office to review his case on the merits. As the only limitation on the Office's authority on this issue is reasonableness, abuse of discretion is generally shown through proof of manifest

¹ 20 C.F.R. § 501.3(d).

² 20 C.F.R. § 10.138(b)(2).

³ *Eugene F. Butler*, 36 ECAB 393, 398 (1984); *Bruce E. Martin*, 35 ECAB 1090, 1093-94 (1984).

⁴ *Edward Matthew Diekemper*, 31 ECAB 224, 225 (1979).

error, clearly unreasonable exercise of judgment, or actions taken, which are contrary to both logic and probable deductions from known facts.⁵ There is no evidence that the Office abused its discretion in denying appellant's request for reconsideration.

The decision of the Office of Workers' Compensation Programs dated April 22, 1998 is hereby affirmed.

Dated, Washington, D.C.
April 24, 2000

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

⁵ *Daniel J. Perea*, 42 ECAB 214 (1990).