

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LaJUANDA W. EDWARDS and DEPARTMENT OF VETERANS AFFAIRS,
WEST LOS ANGELES MEDICAL CENTER, Los Angeles, CA

*Docket No. 99-1620; Submitted on the Record;
Issued October 26, 2000*

DECISION and ORDER

Before WILLIE T.C. THOMAS, A. PETER KANJORSKI,
PRISCILLA ANNE SCHWAB

The issues are: (1) whether appellant sustained a recurrence of disability on or about April 9, 1998 as a result of her March 27, 1996 employment injury; and (2) whether the Office of Workers' Compensation Programs properly denied appellant's request for reconsideration.

On March 27, 1996 appellant, a patient services assistant, sustained an injury while in the performance of her duties when she fell out of a chair. The Office accepted her claim for the conditions of right leg contusion and lumbosacral sprain. Appellant sustained a recurrence of disability on October 29, 1996. She eventually returned to full-time regular duty without restrictions. On June 11, 1997 appellant's attending physician, Dr. Kim Thai, a physiatrist, diagnosed lumbosacral sprain, resolved. Noting that she had achieved her preinjury status, he discharged appellant with no future medical care or restrictions needed relative to her injury.

On April 15, 1998 appellant filed a claim asserting that she sustained a recurrence of disability on or about April 9, 1998 as a result of her March 28, 1996 employment injury. She stated that she was standing in an elevator when her leg "weakened from under me." Appellant was seen by an employing establishment physician on April 9, 1998, who noted right leg and lower back pain. She was diagnosed with sciatica on April 14, 1998 and was advised to return to work on April 18, 1998. On April 28, 1998 Dr. Thai diagnosed plantar fasciitis and hip/groin pull. He released appellant to return to work with restrictions.

In a decision dated May 27, 1998, the Office denied appellant's claim of recurrence on the grounds that the medical evidence established that she had recovered from her March 27, 1996 work injury by June 11, 1997.

Appellant requested reconsideration but submitted no medical evidence to support her claim of recurrence.

In a decision dated April 1, 1999, the Office denied a merit review of appellant's claim on the grounds that she neither raised legal questions nor included new and relevant evidence.

The Board finds that the evidence is insufficient to establish that appellant sustained a recurrence of disability on or about April 9, 1998 as a result of her March 27, 1996 employment injury.

An individual who claims a recurrence of disability resulting from an accepted employment injury has the burden of establishing that the disability is related to the accepted injury. This burden requires furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the employment injury and who supports that conclusion with sound medical reasoning.¹

Because appellant failed to submit any medical opinion relating her disability for work on or about April 9, 1998 to the employment injury of March 27, 1996, much less any reasoned medical opinion explaining the causal relationship, the Board finds that she has not met her burden of proof.

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

Section 10.606(b) of the Code of Federal Regulations² provides that an application for reconsideration, including all supporting documents, must (1) be submitted in writing and (2) set forth arguments and contain evidence that either (i) shows that the Office erroneously applied or interpreted a specific point of law, (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. Section 608(b) provides that where the request is timely but fails to meet at least one of the standards described in section 10.606(b)(2), the Office will deny the application for reconsideration without reopening the case for a review on the merits.³

Appellant's request for reconsideration failed to show that the Office erroneously applied or interpreted a specific point of law. Appellant advanced no relevant legal argument not previously considered by the Office, and she constituted no relevant and pertinent new evidence not previously considered by the Office. The Office therefore properly denied appellant's request for reconsideration without reopening her case for a review on the merits.⁴

¹ *Dennis E. Twardzik*, 34 ECAB 536 (1983); *Max Grossman*, 8 ECAB 508 (1956); 20 C.F.R. § 10.121(a).

² 20 C.F.R. § 10.606(b).

³ *Id.* at § 608(b).

⁴ The Board's jurisdiction is limited to reviewing the evidence that was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c). The Board therefore has no jurisdiction to review the additional medical evidence submitted to the record following the Office's April 1, 1999 decision.

The April 1, 1999 and May 27, 1998 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, DC
October 26, 2000

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member

Priscilla Anne Schwab
Alternate Member