

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GEORGEANNA LEEDS and U.S. POSTAL SERVICE,
BULK MAIL CENTER, Cincinnati, OH

*Docket No. 99-1773; Submitted on the Record;
Issued September 14, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
PRISCILLA ANNE SCHWAB

The issue is whether the Office of Workers' Compensation Programs properly denied appellant's request for reconsideration under 5 U.S.C. § 8128(a).

In the present case, appellant filed a claim on September 30, 1997, alleging that she sustained an emotional condition causally related to her federal employment. By decision dated February 13, 1998, the Office denied the claim, finding that appellant had not established any compensable factors of her federal employment.

By letter dated February 10, 1999, appellant requested reconsideration of her claim. In a decision dated February 16, 1999, the Office determined that appellant's request for reconsideration and the accompanying evidence submitted were insufficient to warrant reopening the claim for merit review.

With respect to the Board's jurisdiction to review final decisions of the Office, it is well established that an appeal must be filed no later than one year from the date of the Office's final decision.¹ Since appellant filed her appeal on May 13, 1999, the only decision before the Board is the February 16, 1999 decision denying her request for reconsideration.

The Board has reviewed the record and finds that the Office properly denied appellant's request for reconsideration.

To require the Office to reopen a case for merit review under section 8128(a) of the Federal Employees' Compensation Act,² the Office's regulations provide that a claimant may obtain review of the merits of the claim by: (1) showing that the Office erroneously applied or interpreted a specific point of law; or (2) advancing a relevant legal argument not previously considered by the Office; or (3) submitting relevant and pertinent evidence not previously

¹ See 20 C.F.R. § 501.3(d).

² 5 U.S.C. § 8128(a) (providing that "[t]he Secretary of Labor may review an award for or against payment of compensation at any time on his own motion or on application").

considered by the Office.³ Section 10.608(b) states that any application for review that does not meet at least one of the requirements listed in section 10.606(b)(2) will be denied by the Office without review of the merits of the claim.⁴

In the present case, appellant's February 10, 1999 request for reconsideration did not offer any new legal argument or show an erroneous application or interpretation of law by the Office. As noted above, appellant's claim was denied on the grounds that she had not established a compensable factor of employment as contributing to an emotional condition. Appellant did not submit any new evidence on this issue.⁵ In addition, the medical evidence submitted, which included medical reports dated January 22 and September 15, 1997 from Dr. Paul Samson, a psychologist, and a January 27, 1997 report from Dr. Christopher Hayner, a pulmonary specialist, had previously been submitted prior to the February 13, 1998 merit decision.⁶

The Board finds that appellant has not met any of the requirements of section 10.606(b)(2), and therefore the Office properly denied the request for reconsideration without merit review of the claim.

The decision of the Office of Workers' Compensation Programs dated February 16, 1999 is affirmed.

Dated, Washington, DC
September 14, 2000

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Priscilla Anne Schwab
Alternate Member

³ 20 C.F.R. § 10.606(b)(2).

⁴ 20 C.F.R. § 10.608(b); *see also* Norman W. Hanson, 45 ECAB 430 (1994).

⁵ The record indicates appellant resubmitted a factual statement that had previously been submitted prior to the February 13, 1998 Office decision.

⁶ The Office indicated that Dr. Samson's January 22, 1997 report and Dr. Hayner's January 27, 1997 report had not been previously submitted, but a review of the record indicates that these reports had been submitted prior to the February 13, 1998 Office decision.