

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of VINCENT J. CIRIGLIANO and U.S. POSTAL SERVICE,
POST OFFICE, Cornwall-on-Hudson, NY

*Docket No. 00-1496; Submitted on the Record;
Issued March 2, 2001*

DECISION and ORDER

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

The issue is whether the Office of Workers' Compensation Programs abused its discretion by refusing to reopen appellant's case for further review on the merits of his claim under 5 U.S.C. § 8128(a).

On August 12, 1998 appellant, then a 36-year-old letter carrier, filed a claim alleging that he sustained an emotional condition in the performance of duty. Appellant claimed that he had been subjected to constant harassment by his supervisor, which resulted in anxiety, dizziness, rapid heartbeat and numbness in his face and jaw.

By letter dated August 26, 1998, the Office requested that appellant submit additional medical evidence in support of his claim and provide factual evidence, including statements from witnesses, which would indicate that the alleged harassment occurred on specific dates, times and places.

Appellant submitted reports dated September 22 and October 7, 1998 from Dr. Judith Waldman, Ph.D., who was treating him for severe anxiety and depression related to employment stress. Dr. Waldman stated that appellant had decreased concentration, extreme fatigue, diarrhea, eating and sleeping disturbances, feelings of hopelessness and despair.

By decision dated December 4, 1998, the Office denied the claim finding the evidence of record failed to establish that an emotional injury was sustained in the performance of duty.

By letter dated November 3, 1999, appellant requested reconsideration. Accompanying the claim was a November 18, 1998 letter from the employing establishment, which indicated the case was unsuitable for mediation, and a December 21, 1998 letter from a union official, which contains a few generalized assertions in appellant's behalf. Appellant did not submit any new medical evidence with his request, except for two CA-20 forms from Dr. Waldman, dated November 25 and December 7, 1998.

By decision dated December 15, 1999, the Office denied appellant's application for review on the grounds that it neither raised substantive legal questions nor included new and relevant evidence sufficient to require the Office to review its prior decision. As appellant did not file an appeal until March 8, 2000, the Board does not have jurisdiction to review the December 4, 1998 decision.¹

The Board finds that the Office acted within its discretion in refusing to reopen appellant's case for further review on the merits.

Under 20 C.F.R. § 10.607, a claimant may obtain review of the merits of his or her claim by showing that the Office erroneously applied or interpreted a specific point of law, by advancing a relevant legal argument not previously considered by the Office, or by submitting relevant and pertinent evidence not previously considered by the Office.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

In this case, appellant has not shown that the Office erroneously applied or interpreted a specific point of law; he has not advanced a relevant legal argument not previously considered by the Office; and he has not submitted relevant and pertinent evidence not previously considered by the Office. Thus, his request did not contain any new and relevant medical evidence for the Office to review.

All the medical evidence submitted by appellant was previously of record and considered by the Office in reaching prior decisions, with the exception of Dr. Waldman's CA-20 forms, which were cumulative and repetitive of her previous reports. Additionally, appellant's November 3, 1999 letter failed to show the Office erroneously applied or interpreted a point of law, nor did it advance a point of law or fact not previously considered by the Office.

Although appellant generally contended that he had sustained an emotional condition in the performance of duty, he failed to submit new and relevant evidence in support of this contention. Therefore, the Office did not abuse its discretion in refusing to reopen appellant's claim for a review on the merits.

¹ See 20 C.F.R. § 501.2(c).

² 20 C.F.R. § 10.607(b)(1). See generally 5 U.S.C. § 8128(a).

³ *Howard A. Williams*, 45 ECAB 853 (1994).

The December 15, 1999 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
March 2, 2001

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Priscilla Anne Schwab
Alternate Member