

The Office accepted his claim for an aggravation of extrinsic asthma and paid compensation for disability.

In a decision dated April 10, 2006, the Office suspended appellant's compensation under 5 U.S.C. § 8123(d). The Office found that he failed to attend a March 23, 2006 medical examination directed by the Office and did not provide a valid reason.

On March 25, 2007 appellant completed an appeal request form indicating that he was requesting reconsideration. The Office received this request on April 3, 2007. On the same date, the Office received a memorandum and physical profile serial report indicating that appellant was certified "medically disqualified for worldwide duty."

In a decision dated May 15, 2007, the Office denied appellant's request for reconsideration. The Office found that the request was insufficient to warrant a review of the merits of the case because appellant did not submit any new evidence relevant to the April 10, 2006 decision or argument for error. This appeal followed.

LEGAL PRECEDENT

The Office may review an award for or against compensation upon application by an employee (or his or her representative) who receives an adverse decision. The employee shall exercise this right through a request to the district Office. The request, along with the supporting statements and evidence, is called the "application for reconsideration."¹ An application for reconsideration must be sent within one year of the date of the Office decision for which review is sought.²

An employee (or representative) seeking reconsideration should send the application for reconsideration to the address as instructed by the Office in the final decision. The application for reconsideration, including all supporting documents, must be in writing and must set forth arguments and contain evidence that either: (1) shows that the Office erroneously applied or interpreted a specific point of law; (2) advances a relevant legal argument not previously considered by the Office; or (3) constitutes relevant and pertinent new evidence not previously considered by the Office.³

A timely request for reconsideration may be granted if the Office determines that the employee has presented evidence or argument that meets at least one of these standards. If reconsideration is granted, the case is reopened and the case is reviewed on its merits. Where the request is timely but fails to meet at least one of these standards, the Office will deny the application for reconsideration without reopening the case for a review on the merits.⁴

¹ 20 C.F.R. § 10.605.

² *Id.* at § 10.607(a).

³ *Id.* at § 10.606.

⁴ *Id.* at § 10.608.

ANALYSIS

Appellant filed his March 25, 2007 request for reconsideration within one year of the Office's April 10, 2006 decision to suspend his compensation. The request is therefore timely. It is insufficient to warrant a reopening of his case. Appellant simply indicated with a mark that he was requesting reconsideration. He did not state the grounds upon which he was requesting reconsideration and he submitted no relevant and pertinent new evidence to support his request. Appellant gave no indication why he disagreed with the Office's April 10, 2006 decision. Evidence of his medical disqualification for worldwide duty, which the Office received the same date as his request, has nothing to do with his refusal to submit to a medical examination as directed by the Office.

Appellant's March 25, 2007 request for reconsideration does not show that the Office erroneously applied or interpreted a specific point of law in its April 10, 2006 decision, does not advance a relevant legal argument not previously considered by the Office and contains no relevant and pertinent new evidence not previously considered by the Office. Because his request does not meet at least one of the standards for obtaining a merit review of his case, the Board finds that the Office properly denied his request. Appellant is not entitled to a reopening of his case.

CONCLUSION

The Board finds that the Office properly denied appellant's March 25, 2007 request for reconsideration.

ORDER

IT IS HEREBY ORDERED THAT the May 15, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 3, 2007
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board