

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JANELLE WALKER and U.S. POSTAL SERVICE,
POST OFFICE, Wilmington, NC

*Docket No. 00-2543; Submitted on the Record;
Issued June 18, 2001*

DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

The issue is whether the Office of Workers' Compensation Programs properly denied appellant's April 19, 2000 request for reconsideration.

In a decision dated April 20, 1999, the Office reviewed the merits of appellant's claim and denied modification of its prior decision that the medical evidence failed to establish that appellant's disability on or after June 9, 1993 was causally related to her December 15, 1992 work injury.

On April 19, 2000 appellant requested reconsideration. In support thereof she submitted numerous treatment notes, a December 15, 1998 narrative medical report that was previously submitted and considered by the Office and an April 18, 2000 narrative medical report.

In a decision dated April 26, 2000, the Office denied appellant's request on the grounds that the evidence submitted was cumulative and insufficient to warrant a merit review of her claim.

The Board finds that the Office acted within its discretion in denying appellant's April 19, 2000 request for reconsideration.

Section 10.606(b) of the Code of Federal Regulations¹ provides that an application for reconsideration, including all supporting documents, must be submitted in writing and 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. The request may be granted if the Office determines that the employee has presented evidence or argument that meets at least one of these standards. If the Office

¹ 20 C.F.R. § 10.606(b).

grants reconsideration, the case is reopened and reviewed on its merits. Where the request fails to meet at least one of the standards described, the Office will deny the application for reconsideration without reopening the case for a review on the merits.²

Appellant's April 19, 2000 request for reconsideration fails to meet at least one of the standards described. Appellant has not shown that the Office erroneously applied or interpreted a specific point of law, nor has she advanced a relevant legal argument not previously considered by the Office.

Appellant did submit a new medical report, dated April 18, 2000, but this report is substantially similar to the December 15, 1998 report that was previously submitted and considered by the Office. Although the April 18, 2000 report provides additional medical rationale to support the opinion given, both this report and the report of December 15, 1998 relate a history of injury that the Office found inconsistent with the emergency room records of December 15, 1992. In this respect, the April 18, 2000 report is cumulative of the evidence previously considered and does not entitle appellant to a merit review of her claim under the third standard.

Because appellant's April 19, 2000 request for reconsideration fails to meet at least one of the standards described, the Office acted within its discretion to deny that request without reopening the case for a review on the merits.

The April 26, 2000 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
June 18, 2001

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member

² *Id.* at § 10.608.