

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of GEORGE MULLER and U.S. POSTAL SERVICE,  
CENTRALIZED PARCEL POST FACILITY, New York, N.Y.

*Docket No. 96-706; Submitted on the Record;  
Issued January 8, 1998*

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DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
BRADLEY T. KNOTT

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

On May 17, 1994 appellant, then a 57-year-old parcel post carrier, filed a claim for a June 19, 1991 injury. He claimed that he was trying to take a tub of books off a truck when he fell and sustained an injury to his left hip. In a September 16, 1994 decision, the Office rejected appellant's claim on the grounds that he had not established the fact of an injury at the time, place and in the manner alleged. In a September 5, 1995 letter, appellant requested reconsideration. In an October 2, 1995 decision, the Office denied appellant's request for reconsideration on the grounds that he did not submit any evidence in support of his request for reconsideration and his request therefore was insufficient to warrant review of the prior decision.

The jurisdiction of the Board is limited to final decisions of the Office issued within one year prior to the filing of an appeal with the Board.<sup>1</sup> As appellant's appeal was filed on January 11, 1996, the Board has jurisdiction only over the October 2, 1995 decision of the Office.

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

Under 20 C.F.R. § 10.138(b)(1), a claimant may obtain review of the merits of his claim by showing that the Office erroneously applied or interpreted a point of law, advancing a point of law or fact not previously considered by the Office, or submitting relevant and pertinent evidence not previously considered by the Office. Section 10.138(b)(2) provides that when an application for review of the merits of a claim does not meet at least one of these three requirements, the Office will deny the application for review without reviewing the merits of the

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<sup>1</sup> 20 C.F.R. § 501.3.

claim.<sup>2</sup> 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.<sup>3</sup> Evidence that does not address the particular issue involved also does not constitute a basis for reopening a case.<sup>4</sup>

The only evidence submitted by appellant in support of his request for reconsideration was a July 15, 1994 note from Dr. Duc Nguyen, an orthopedic surgeon, which indicated that appellant was fit for light duty with no prolonged standing and no lifting over 20 pounds. Dr. Nguyen stated that appellant had severe arthritis of the left hip and would eventually require a total hip replacement. This report had been submitted previously and had been considered by the Office prior to the denial of appellant's claim. The evidence, therefore, was repetitive and was insufficient to warrant review of the Office's decision denying appellant's claim.<sup>5</sup> The Office properly denied appellant's request for reconsideration.

The decision of the Office of Workers' Compensation Programs, dated October 2, 1995, is hereby affirmed.

Dated, Washington, D.C.  
January 8, 1998

Michael J. Walsh  
Chairman

David S. Gerson  
Member

Bradley T. Knott  
Alternate Member

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<sup>2</sup> 20 C.F.R. § 10.138(b)(2).

<sup>3</sup> *Eugene F. Butler*, 36 ECAB 393, 398 (1984); *Bruce E. Martin*, 35 ECAB 1090, 1093-94 (1984).

<sup>4</sup> *Edward Matthew Diekemper*, 31 ECAB 224, 225 (1979).

<sup>5</sup> Subsequent to the October 2, 1995 decision, the Office received medical notes and x-ray reports from appellant which extended from October 2, 1991 through August 10, 1995. The Board's scope of review is limited to the evidence that was before the Office at the time it issued its final decision. 20 C.F.R. § 501.2. The Board therefore cannot review the evidence received by the Office after October 2, 1995