

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of TRACY L. GRAHAM and U.S. POSTAL SERVICE,  
POST OFFICE, Northridge, CA

*Docket No. 99-1057; Submitted on the Record;  
Issued August 16, 2000*

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DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
MICHAEL E. GROOM

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

In a decision dated June 12, 1997, the Office found that appellant failed to submit sufficient medical evidence to support the development of an emotional condition causally related to factors of her federal employment.<sup>1</sup>

In letters dated June 6 and 11, 1998, appellant requested reconsideration. She explained that she was currently unable to send additional evidence as her Equal Employment Opportunity ("EEO") case was pending. She submitted a scheduling order to show the date of an upcoming EEO hearing.

In a decision dated January 15, 1999, the Office denied appellant's request for reconsideration on the grounds that her request neither raised substantive legal questions nor included new and relevant evidence.

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

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<sup>1</sup> An appeal to the Board must be mailed no later than one year from the date of the Office's final decision. 20 C.F.R. § 501.3(d) (time for filing); *see* 20 C.F.R. § 501.10(d)(2) (computation of time). Because appellant mailed her February 13, 1999 appeal to the Board more than one year after the Office's June 12, 1997 decision, the Board has no jurisdiction to review that decision.

Section 10.606(b) of the Code of Federal Regulations<sup>2</sup> provides that an application for reconsideration, including all supporting documents, must:

“(1) be submitted in writing;

“(2) set forth arguments and contain evidence that either;

(i) shows that the Office erroneously applied or interpreted a specific point of law

(ii) advances a relevant legal argument not previously considered by the Office or

(iii) constitutes relevant and pertinent new evidence not previously considered by the Office.”

Appellant’s request for reconsideration did not show that the Office erroneously applied or interpreted a specific point of law. It did not advance a relevant legal argument not previously considered by the Office. It did not contain relevant and pertinent new evidence not previously considered by the Office. Appellant submitted only a scheduling order to show the date of her upcoming EEO hearing. This has no bearing on the issue decided by the Office in its June 12, 1997 decision on the merits of appellant’s claim. In that decision, the Office found that appellant failed to submit sufficient medical evidence to support the development of an emotional condition causally related to factors of her federal employment. Proof of an EEO hearing date is simply irrelevant to whether appellant submitted sufficient medical evidence.

Section 608(b) provides that where the request is timely but fails to meet at least one of the standards described in section 10.606(b)(2), the Office will deny the application for reconsideration without reopening the case for a review on the merits.<sup>3</sup> The Board therefore finds that the Office properly denied appellant’s request.

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<sup>2</sup> 20 C.F.R. § 10.606(b).

<sup>3</sup> *Id.* at § 608(b).

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

Dated, Washington, D.C.  
August 16, 2000

David S. Gerson  
Member

Willie T.C. Thomas  
Member

Michael E. Groom  
Alternate Member