

U. S. DEPARTMENT OF LABOR
Employees' Compensation Appeals Board

In the Matter of LAUREEN WALL and U.S. POSTAL SERVICE,
POST OFFICE, Detroit, MI

*Docket No. 99-2215; Submitted on the Record;
Issued March 26, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether the Office of Workers' Compensation Programs, by its March 26, 1999 decision, abused its discretion by refusing to reopen appellant's case for further consideration of the merits of her claim under 5 U.S.C. § 8128(a).

The Board has duly reviewed the case record and finds that, by its decision dated March 26, 1999, the refusal of the Office to reopen appellant's case for further consideration of the merits of her claim did not constitute an abuse of discretion.

On June 19, 1997 appellant, then a 45-year-old letter carrier, filed an occupational disease claim alleging that she suffered from stress, anxiety and depression as a result of her federal employment. The Office denied appellant's claim on March 24, 1998 on the grounds that she failed to establish any compensable factors of employment as having occurred. By letter dated March 22, 1999, appellant requested reconsideration of the March 24, 1998 decision. By decision dated March 26, 1999, the Office denied review of the prior decision.

The Board's jurisdiction to consider and decide appeals from final decisions of the Office extends only to those final decisions issued within one year prior to the filing of the appeal.¹ Because more than one year has elapsed between the issuance of the Office's March 24, 1998 decision and June 25, 1999, the date appellant filed her appeal with the Board,² the Board lacks jurisdiction to review the March 24, 1998 decision and any preceding decisions. Therefore, the only decision before the Board is the Office's March 26, 1999 nonmerit decision denying appellant's appeal for a review of its March 24, 1998 decision.

¹ *Oel Noel Lovell*, 42 ECAB 537 (1991); 20 C.F.R. §§ 501.2(c), 501.3(d)(2).

² Appellant's appeal was postmarked June 23, 1999.

To require the Office to reopen a case for merit review, section 10.606 provides that a claimant may obtain review of the merits of his or her claim by written request to the Office identifying the decision and setting forth arguments or submitting 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 When a claimant fails to meet at least one of the above standards, the Office will deny the application for review without reviewing the merits of the claim.⁴

In support of the March 22, 1999 request for reconsideration, appellant submitted a March 10, 1998 union letter previously of record.⁵ Also submitted was a March 18, 1998 statement by appellant restating her identification of factors of employment to which she attributed her condition but which had already been considered and determined to be noncompensable factors.⁶

The evidence submitted on reconsideration was not new to the issue of whether any compensable factors of employment occurred.

As appellant's March 22, 1999 request for reconsideration does not meet at least one of the three requirements for obtaining a merit review, the Board finds that the Office did not abuse its discretion in denying that request.

³ 20 C.F.R. § 10.606(a). *See generally* 5 U.S.C. § 8128.

⁴ 20 C.F.R. § 10.608(a).

⁵ *Eugene F. Butler*, 36 ECAB 393, 398 (1984) (finding that 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).

⁶ The Board notes that the March 18, 1998 statement by appellant was originally received by the Office on March 20, 1998, prior to the Office's March 24, 1998 decision but was not considered at that time.

The decision of the Office of Workers' Compensation Programs dated March 26, 1999 is affirmed.⁷

Dated, Washington, DC
March 26, 2001

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member

⁷ The Board notes that subsequent to the Office's March 26, 1999 decision and on appeal to the Board, appellant submitted medical evidence which was not considered. As this evidence was not previously submitted to the Office for consideration prior to its decision of March 26, 1999, the evidence represents new evidence, which cannot be considered by the Board. The Board's jurisdiction is limited to reviewing the evidence that was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c). Appellant may submit this evidence to the Office with a formal request for reconsideration pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. § 10.606(b).