

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of MATTHEW C. GREENE and U.S. POSTAL SERVICE,  
MAIN POST OFFICE, Martinsburg, WV

*Docket No. 01-1729; Submitted on the Record;  
Issued April 26, 2002*

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DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
WILLIE T.C. THOMAS

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

On August 12, 1998 appellant, then a 32-year-old letter carrier, filed an occupational disease claim alleging that he sustained an emotional condition causally related to factors of his employment.

By decision dated November 3, 1998, the Office denied appellant's claim on the grounds that he failed to establish that his emotional condition was causally related to compensable factors of his employment.

By letter dated November 9, 1998, appellant requested an oral hearing that was held on April 27, 1999.

By decision dated and finalized January 5, 2000, the Office hearing representative affirmed the Office's November 3, 1998 decision.

By letter dated January 2, 2001, appellant requested reconsideration and submitted additional evidence.

Appellant submitted a January 13, 1999 medical note from a physician and an October 14, 1999 medical report from a licensed clinical social worker.

Appellant also submitted evidence and argument previously of record.

By decision dated March 1, 2001, the Office denied appellant's request for reconsideration.

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

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.<sup>1</sup> As appellant filed his appeal with the Board on June 4, 2001, the only decision properly before the Board is the Office's March 1, 2001 decision denying appellant's request for reconsideration. The Board has no jurisdiction to consider the Office's November 3, 1998 decision denying appellant's claim for an emotional condition or the January 5, 2000 decision denying modification of the November 3, 1998 decision.<sup>2</sup>

The Code of Federal Regulations provides that a claimant may obtain review of the merits of the claim by: (1) showing that the Office erroneously applied or interpreted a specific point of law; or (2) advancing a relevant legal argument not previously considered by the Office; or (3) submitting relevant and pertinent evidence not previously considered by the Office.<sup>3</sup> When an application for review of the merits of a claim does not meet at least one of these requirements, the Office will deny the application for review without reviewing the merits of the claim.<sup>4</sup>

Appellant submitted a January 13, 1999 medical note from a physician and an October 14, 1999 medical report from a licensed clinical social worker. However, unless appellant alleges a compensable factor of employment substantiated by the record, it is unnecessary for the Office to address the medical evidence.<sup>5</sup> Therefore, this evidence does not constitute relevant and pertinent evidence not previously considered by the Office.

Appellant also argued that the Office did not consider all of his allegations before rendering its decisions. However, he did not specify which of his allegations were not addressed by the Office. Therefore, this argument does not constitute relevant legal argument or relevant and pertinent evidence not previously considered by the Office.

Appellant also submitted evidence and argument previously of record. As the Office has previously reviewed this evidence, it does not constitute relevant and pertinent evidence not previously considered by the Office.

As appellant did not show that the Office erroneously applied or interpreted a specific point of law, did not advance a relevant legal argument not previously considered by the Office,

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<sup>1</sup> 20 C.F.R. §§ 501.2(c); 501.3(d)(2).

<sup>2</sup> See *Leon D. Faidley, Jr.*, 41 ECAB 104, 108-09 (1989).

<sup>3</sup> 20 C.F.R. § 10.606(b)(2).

<sup>4</sup> 20 C.F.R. § 10.608(b).

<sup>5</sup> See *Garry M. Carlo*, 47 ECAB 299, 305 (1996). Additionally, a licensed clinical social worker is not a "physician" as defined in the Federal Employees' Compensation Act. As defined by the Act in 5 U.S.C. § 8101(2), "physician" includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by state law. Lay individuals such as physician assistants, nurse practitioners, and social workers are not competent to render a medical opinion; see *Robert J. Krstyen*, 44 ECAB 227, 229 (1992).

or submit relevant and pertinent evidence not previously considered by the Office, the Office properly denied his request for reconsideration.

The decision of the Office of Workers' Compensation Programs dated March 1, 2001 is affirmed.

Dated, Washington, DC  
April 26, 2002

Michael J. Walsh  
Chairman

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member