

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JILL L. REED and U.S. POSTAL SERVICE,  
POST OFFICE, Southfield, MI

*Docket No. 02-832; Submitted on the Record;  
Issued September 26, 2002*

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DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,  
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs properly denied appellant's November 17, 2001 request for reconsideration.

On June 30, 2000 appellant, then a 43-year-old city carrier, filed a claim asserting that she injured her right knee on April 17, 2000 when she struck it against the door latch of her postal vehicle.

In a decision dated December 29, 2000, the Office denied appellant's claim. The Office accepted that the incident occurred as alleged but found that the medical evidence was insufficient to establish a causal relationship between this incident and appellant's diagnosed right knee condition. The medical evidence made no mention of the incident until December 4, 2000 and the opinion given at that time was speculative<sup>1</sup> and without rationale.

On November 17, 2001 appellant requested reconsideration. She submitted a copy of an operative report and discussed her feeling that the medical evidence was sufficient to establish causal relationship.

In a decision dated January 30, 2002, the Office denied appellant's request for reconsideration on the grounds that the information submitted in support thereof was immaterial.

Appellant filed her appeal to the Board on February 6, 2002. On March 18, 2002 the Branch of Hearings and Review issued a decision denying appellant's request for a hearing on the grounds that she had previously requested reconsideration and was not entitled to a hearing

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<sup>1</sup> On December 4, 2000 Dr. D. Morrison, appellant's surgeon, reported that causal relationship was a possibility: "At arthroscopy, I did recognize a large condylar defect about the medial femoral condyle, which could correlate to a chondral fracture which could correlate to that traumatic event which she is describing to me today. Certainly there could be a causal relationship there."

as a matter of right. Under the principles discussed in *Douglas E. Billings*,<sup>2</sup> the Branch of Hearings and Review's March 18, 2002 decision is null and void.

The Board finds that the Office properly denied appellant's November 17, 2001 request for reconsideration.

The Federal Employees' Compensation Act provides that the Office may review an award for or against compensation upon application by an employee (or his or her representative) who receives an adverse decision. The employee shall exercise this right through a request to the district office. The request, along with the supporting statements and evidence, is called the "application for reconsideration."<sup>3</sup>

An employee (or representative) seeking reconsideration should send the application for reconsideration to the address as instructed by the Office in the final decision. The application for reconsideration, including all supporting documents, must be in writing and must 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.<sup>4</sup>

A timely request for reconsideration may be granted if the Office determines that the employee has presented evidence and/or argument that meets at least one of these standards. If reconsideration is granted, the case is reopened and the case is reviewed on its merits. Where the request is timely but fails to meet at least one of these standards, the Office will deny the application for reconsideration without reopening the case for a review on the merits.<sup>5</sup>

Appellant's November 17, 2001 request for reconsideration fails to meet at least one of the standards for obtaining a merit review of her case. To support her request appellant submitted a copy of an operative report that was previously submitted to the record. This evidence is not new and has been previously considered. Evidence that repeats or duplicates evidence already in the record has no evidentiary value and constitutes no basis for reopening a case.<sup>6</sup>

Appellant also supported her request by arguing the sufficiency of the medical evidence. Causal relationship is a medical issue<sup>7</sup> and the medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence.<sup>8</sup> As a layperson, appellant is

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<sup>2</sup> 41 ECAB 880 (1990).

<sup>3</sup> 20 C.F.R. § 10.605 (1999).

<sup>4</sup> *Id.* at § 10.606.

<sup>5</sup> *Id.* at § 10.608.

<sup>6</sup> *Eugene F. Butler*, 36 ECAB 393 (1984); *Bruce E. Martin*, 35 ECAB 1090 (1984).

<sup>7</sup> *Mary J. Briggs*, 37 ECAB 578 (1986).

<sup>8</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

not competent to provide the reasoned medical opinion necessary to establish the critical element of causal relationship. The Office found that Dr. Morrison's opinion on causal relationship was speculative, that he did not express himself with reasonable medical certainty.<sup>9</sup> The Office also found that he failed to offer sound medical reasoning to support a causal relationship between the incident of April 17, 2000 and appellant's diagnosed condition. Appellant cannot cure such defects in the medical opinion evidence with her own narrative. On the issue of causal relationship, her lay opinion is not pertinent.

Because appellant's November 17, 2001 request for reconsideration fails to meet at least one of the standards for obtaining a merit review of her case, the Office properly denied the request.

The January 30, 2002 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC  
September 26, 2002

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>9</sup> See *Jennifer Beville*, 33 ECAB 1970 (1982) (finding that a physician's opinion that the employee's complaints "could have been" related to her work injury was speculative and of limited probative value). It is not necessary that the evidence be so conclusive as to suggest causal connection beyond all possible doubt in the mind of a medical scientist. The evidence required is only that necessary to convince the adjudicator that the conclusion drawn is rational, sound and logical. *Kenneth J. Deerman*, 34 ECAB 641, 645 (1983) and cases cited therein at note 1.