United States Department of Labor Employees' Compensation Appeals Board

G.B., Appellant))
and) Docket No. 11-297 Legged Sentember 14, 2011
DEPARTMENT OF VETERANS AFFAIRS, GREATER LOS ANGELES HEALTHCARE) Issued: September 14, 2011)
SYSTEM, Los Angeles, CA, Employer) _)
Appearances: Alan J. Shapiro, Esq., for the appellant	Case Submitted on the Record

ORDER AFFIRMING CASE

Before:
RICHARD J. DASCHBACH, Chief Judge
ALEC J. KOROMILAS, Judge
COLLEEN DUFFY KIKO, Judge

On November 17, 2010 appellant filed a timely appeal from a July 28, 2010 merit decision of the Office of Workers' Compensation Programs (OWCP) denying her occupational disease claim filed on December 14, 2009. She also appeals from an October 21, 2010 decision denying her request for reconsideration without further merit review. The appeal was docketed as No. 11-297.

The Board has duly considered the matter and finds that OWCP properly denied both of appellant's claims and her request for reconsideration. On May 26, 2009 appellant filed an occupational disease claim alleging that she sustained a bilateral arm and shoulder condition caused by repetitive typing on the job. OWCP accepted the claim on July 27, 2009 for bilateral lateral epicondylitis and expanded it on May 12, 2010 to include bilateral shoulder adhesive capsulitis and temporary aggravation of lumbar spinal stenosis. On December 14, 2009 appellant filed a second occupational disease claim alleging that she sustained epicondylitis and

Office of Solicitor, for the Director

¹ OWCP File No. xxxxxx664.

² OWCP later expanded the claim to include psychogenic pain and major depression.

shoulder bursitis due to excessive typing at work.³ By decision dated March 12, 2010, OWCP denied the claim, finding that appellant did not establish that a new employment factor contributed to the condition. At a June 1, 2010 telephonic hearing, appellant testified that her December 14, 2009 claim was based on the same employment factors as her initial claim and that she filed a new claim because OWCP at the time had not yet accepted a shoulder condition. Her attorney acknowledged that a duplicate claim was filed. On July 28, 2010 OWCP's hearing representative affirmed the March 12, 2010 decision, finding that appellant filed a duplicate claim for an accepted condition. Appellant thereafter requested reconsideration and submitted a statement about her work duties. In an October 21, 2010 decision, OWCP denied the reconsideration request without conducting a merit review of the claim.

The Board finds that the December 14, 2009 occupational disease claim was duplicative of her May 26, 2009 claim.⁴ Appellant, as well as her counsel, conceded this at the June 1, 2010 telephonic hearing. She has not alleged a new claim and OWCP properly denied the claim. The Board also finds that OWCP properly denied appellant's request for reconsideration. Although she provided a factual statement that was not previously considered by OWCP, this evidence did not address the underlying issue: whether the December 14, 2009 claim was a duplicate claim.⁵ Therefore, the new evidence was not pertinent to the instant case.⁶

³ OWCP File No. xxxxxx873. This claim and claim number xxxxxx664 have been combined.

⁴ OWCP procedures contemplate that duplicate cases should not be created and that development should not occur under the duplicate case. *See* Federal (FECA) Procedure Manual, Part 1 -- Mail and Files, *Duplicate Cases*, Chapter 1.400.7 (February 2000).

⁵ See Mary Lou Barragy, 46 ECAB 781 (1995) (submission of evidence which does not address the particular issue involved does not constitute a basis for reopening a case).

⁶ See 20 C.F.R. § 10.606(b)(2).

IT IS HEREBY ORDERED THAT the October 21 and July 28, 2010 decisions of Office of Workers' Compensation Programs are affirmed.

Issued: September 14, 2011

Washington, DC

Richard J. Daschbach, Chief Judge Employees' Compensation Appeals Board

Alec J. Koromilas, Judge Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge Employees' Compensation Appeals Board