

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of ELIZABETH LAWRENCE ULFIK and DEPARTMENT OF THE  
AIR FORCE, DOBINS AIR FORCE BASE, Ga.

*Docket No. 96-2062; Submitted on the Record;  
Issued May 18, 1998*

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DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,  
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs' refusal to reopen appellant's case for reconsideration of the merits of her claim pursuant to section 8128(a) of the Federal Employees' Compensation Act constituted an abuse of discretion.

On September 10, 1993 appellant, then a 41-year-old travel accounting technician, filed an occupational disease claim, alleging that she had sustained stress-related aggravation of her preexisting fibromyalgia which she asserted was causally related to factors of her federal employment. On June 22, 1994 the Office denied appellant's claim. Appellant requested a hearing before an Office hearing representative. By decision dated March 9, 1995 which was finalized March 13, 1995, an Office hearing representative affirmed the Office's June 22, 1994 decision.

In a letter dated March 12, 1996, appellant requested reconsideration. In a decision dated March 21, 1996, the Office denied appellant's request for reconsideration on the grounds that it was *prima facie* insufficient to warrant 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. As appellant's appeal was docketed on June 21, 1996, the Board only has jurisdiction to review the Office's March 21, 1996 decision.<sup>1</sup>

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<sup>1</sup> 20 C.F.R. § 501.3(d)(2).

The Board has fully reviewed the case record on appeal and finds that the Office properly denied appellant's request for reconsideration.<sup>2</sup>

Under 20 C.F.R. § 10.138(b)(1), a claimant may obtain review of the merits of her claim by showing that the Office erroneously applied or interpreted a point of law, advancing a point of law or fact not previously considered by the Office, or submitting relevant and pertinent evidence not previously considered by the Office. Section 10.138(b)(2) provides that 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>3</sup> 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.<sup>4</sup> Evidence that does not address the particular issue involved does not constitute a basis for reopening a case.<sup>5</sup>

In the present case, appellant requested reconsideration by letter dated March 12, 1996. She indicated that there were multiple grounds for her reconsideration request and that said arguments with supporting documentation would be forwarded to the Office within a week. However, appellant did not submit any additional arguments or documentation. Since appellant has not asserted that the Office erroneously interpreted or applied a point of law, has not advanced a point of law or fact not previously considered by the Office and has not submitted any relevant or pertinent evidence not previously considered by the Office, her request is *prima facie* insufficient to warrant review of her claim.

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<sup>2</sup> The record also contains a letter dated March 23, 1996 by Charles Jenkins, a licensed professional counselor. The Board's review is limited to the evidence that was before the Office at the time of its final decision. The Board therefore cannot consider this report. 20 C.F.R. § 501.2(c)

<sup>3</sup> 20 C.F.R. § 10.138(b)(2).

<sup>4</sup> *Sandra F. Powell*, 45 ECAB 877 (1994); *Eugene F. Butler*, 36 ECAB 393 (1984); *Bruce E. Martin*, 35 ECAB 1090 (1984).

<sup>5</sup> *Dominic E. Coppo*, 44 ECAB 484 (1993); *Edward Matthew Diekemper*, 31 ECAB 224 (1979).

The decision of the Office of Workers' Compensation Programs dated March 21, 1996 is hereby affirmed.

Dated, Washington, D.C.  
May 18, 1998

Michael J. Walsh  
Chairman

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member