

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROBERT J. YEAGER and U.S. POSTAL SERVICE,
San Diego, CA

*Docket No. 98-1004; Submitted on the Record;
Issued December 21, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs abused its discretion in denying appellant's request for reconsideration.

The Board has duly reviewed the case record in the present appeal and finds that the refusal of the Office, in its April 21, 1997 decision, to reopen appellant's case for further consideration of the merits of his claim did not constitute an abuse of discretion.

On October 12, 1995 appellant, then a 53-year-old carpenter, sustained left ring finger tenosynovitis in the performance of duty. He subsequently filed a claim for a schedule award claiming that he had sustained a permanent impairment due to his employment injury.

By decision dated December 18, 1996, the Office denied appellant's claim for a schedule award.

By letter dated April 5, 1997, appellant requested reconsideration of the denial of his claim and noted that he had previously received a schedule award for an injury to his right ring finger. He alleged that the condition of his left hand was more severe and therefore he felt that he was entitled to a schedule award for the left ring finger.

By decision dated April 21, 1997, the Office 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.¹ As appellant filed his appeal with the Board on February 3, 1998 the only decision properly before the Board is the Office's April 21, 1997 decision denying appellant's request for reconsideration.

¹ 20 C.F.R. §§ 501.2(c); 501.3(d)(2).

The Board has no jurisdiction to consider the Office's December 18, 1996 decision denying appellant's claim for a schedule award.²

Section 10.606 of Title 20 of 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 point of law; or (2) advancing a point of law or a fact not previously considered by the Office; or (3) submitting relevant and pertinent evidence not previously considered by the Office.³ Section 10.607 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.⁴

In his April 5, 1997 letter requesting reconsideration, appellant did not submit any relevant and pertinent evidence not previously considered by the Office and did not argue that the Office erroneously applied or interpreted a point of law. Nor did he advance a point of law or a fact not previously considered by the Office. Appellant merely stated his opinion that his left ring finger injury was more severe than an injury to his right ring finger for which he had received a schedule award. However, appellant is not a physician and lay persons are not competent to render a medical opinion.⁵ Therefore, the Office properly denied his request for reconsideration.

The decision of the Office of Workers' Compensation Programs dated April 21, 1997 is affirmed.

Dated, Washington, D.C.
December 21, 1999

Michael J. Walsh
Chairman

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

² *Leon D. Faidley, Jr.*, 41 ECAB 104, 108-09 (1989).

³ 20 C.F.R. § 10.606.

⁴ 20 C.F.R. § 10.607.

⁵ *See James A. Long*, 40 ECAB 538, 542 (1989).