

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of DORA VERA and U.S. POSTAL SERVICE, PROCESSING  
& DISTRIBUTION CENTER, Santa Ana, CA

*Docket No. 99-1207; Submitted on the Record;  
Issued July 12, 2000*

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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 properly denied appellant's request for a hearing.

The Office accepted that appellant's April 7, 1997 employment injury resulted in a sprain of the neck and a sprain of the lumbar region. By decision dated August 7, 1998, the Office denied appellant's claim for a recurrence of disability beginning April 8, 1998.

By letter dated September 10, 1998, appellant's attorney requested an oral hearing. By decision dated January 19, 1999, the Office found that appellant was not entitled to a hearing because her request was not made within 30 days after the issuance of the Office's decision. The Office decision stated that the issue involved was a medical one and that appellant could request a reconsideration of her case.

Appellant, through her attorney, appealed to the Board, contending that appellant's entitlement to a hearing was wrongly denied.

The Board finds that the Office's August 7, 1998 decision was not properly issued.

Title 20 of the Code of Federal Regulations, section 10.130, titled "Processing of claims," states in part: "a copy of the decision, together with information as to the right to a hearing, to a reconsideration, and to an appeal to the Employees' Compensation Appeals Board, shall be mailed to the claimant's last known address. If the claimant is represented before the Office, a copy of the decision will also be mailed to such representative."

In the present case, there is no indication that the Office's August 7, 1998 decision was mailed to appellant's attorney, despite the fact that an appointment of representative was mailed to the Office on May 13, 1998 and received by the Office on May 18, 1998. Because the

Office's August 7, 1998 decision was not mailed to appellant's authorized representative as required by the Office's regulation, the decision was not properly issued and must be reissued.<sup>1</sup>

The decisions of the Office of Workers' Compensation Programs dated January 19, 1999 and August 7, 1998 are set aside and the case remanded to the Office for further action consistent with this decision of the Board.

Dated, Washington, D.C.  
July 12, 2000

Michael J. Walsh  
Chairman

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>1</sup> See *Belinda J. Lewis*, 43 ECAB 552 (1992), where the Office did not send a copy of its decision to appellant's authorized representative; the Board remanded the case to the Office for an exercise of its discretion whether to grant a hearing.