

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of GLORIA V. SINGLETON and U.S. POSTAL SERVICE,  
POST OFFICE, Memphis, TN

*Docket No. 99-1315; Submitted on the Record;  
Issued July 6, 2000*

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DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,  
MICHAEL E. GROOM

The issue is whether the Office of Workers' Compensation Programs abused its discretion by refusing to reopen appellant's claim for a merit review on March 2, 1999.

On November 30, 1995 appellant, then a 37-year-old clerk, filed a notice of traumatic injury alleging that she strained a back muscle while sweeping mail on a flat mail sorter in the course of her federal employment. On March 14, 1996 the Office accepted that claim for a lumbar strain and awarded appropriate compensation.

On September 16, 1996 the Office issued a notice of proposed termination of compensation on the basis that residuals from appellant's employment-related injury had ceased. Appellant was given 30 days to submit additional evidence and argument.

By decision dated November 27, 1996, the Office terminated appellant's entitlement to continuing compensation because the weight of the medical evidence established that her disability resulting from the November 25, 1995 injury had ceased by November 26, 1996.

On December 19, 1996 appellant's representative requested an oral hearing, which was held July 22, 1997.

By decision dated September 29, 1997, an Office hearing representative found that the Office met its burden to terminate appellant's compensation benefits effective November 27, 1996 and affirmed the Office's decision. The hearing representative found that the medical evidence of record established that appellant's injury-related disability had ceased.

On October 16, 1997 appellant requested reconsideration.

By decision dated November 26, 1997, the Office denied appellant's request because it found that the evidence submitted in its support was cumulative and insufficient to warrant review of the prior decision.

On February 9, 1999 appellant again requested reconsideration.<sup>1</sup> She stated only that she “would like to submit this letter to you for a reconsideration of my case noted above.” She submitted no evidence with her request for reconsideration.

By decision dated March 2, 1999, the Office declined to reopen the case for a merit review because appellant’s letter requesting reconsideration neither raised substantive legal questions nor included new and relevant evidence.

The Board finds that the Office did not abuse its discretion by refusing to reopen appellant’s claim for a merit review on March 2, 1999.

The only decision before the Board on this appeal is the March 2, 1999 decision of the Office which found that appellant failed to submit sufficient evidence to warrant review of its previous decision. Since more than one year has elapsed between the issuance of the other decisions of record and March 30, 1999, the date appellant filed her appeal with the Board, the Board lacks jurisdiction to review the other decisions of record.<sup>2</sup>

Under section 8128(a) of the Act,<sup>3</sup> the Office has the discretion to reopen a case for review on the merits. The Office must exercise this discretion in accordance with the guidelines set forth in section 10.606(b)(2) of the implementing federal regulations,<sup>4</sup> which provides that a claimant may obtain review of the merits if her written application for reconsideration, including all supporting documents, sets forth arguments and contain evidence that:

“(i) Shows that OWCP erroneously applied or interpreted a specific point of law;  
or

“(ii) Advances a relevant legal argument not previously considered by OWCP; or

“(iii) Constitutes relevant and pertinent new evidence not previously considered by the OWCP.”

Section 10.608(b) provides that any application for review of the merits of the claim which does not meet at least one of the requirements listed in section 10.606(b) will be denied by the Office without review of the merits of the claim.<sup>5</sup>

In support of her request for reconsideration dated February 9, 1999, appellant failed to make any arguments and she submitted no additional evidence. The Office, therefore, properly refused to reopen appellant’s claim for a merit review.

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<sup>1</sup> Appellant indicated that she filed her request for reconsideration in September 1998.

<sup>2</sup> 20 C.F.R. § 501.3(d)(2).

<sup>3</sup> 5 U.S.C § 8128(a).

<sup>4</sup> 20 C.F.R. § 10.606(b) (1999).

<sup>5</sup> 20 C.F.R. § 10.608(b).

The decision of the Office of Workers' Compensation Programs dated March 2, 1999 is affirmed.

Dated, Washington, D.C.  
July 6, 2000

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member