

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JON C. BRUST and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS HOSPITAL, Battle Creek, MI

*Docket No. 99-1052; Submitted on the Record;
Issued June 28, 2000*

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 March 31, 1998 request for reconsideration.

The Board has duly reviewed the record on appeal and finds that the Office properly denied appellant's request.

Section 10.138(b)(1) 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.¹ 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 three requirements, the Office will deny the application for review without reviewing the merits of the claim.²

In its April 20, 1998 decision, the Office found that the evidence submitted in support of appellant's March 31, 1998 request for reconsideration was repetitious and therefore insufficient to warrant a merit review of appellant's claim. In his request for reconsideration appellant argued that he did not refuse suitable work because his physician had not released him to return to work. To support this argument, he submitted several disability slips. Appellant previously submitted these same disability slips, and the Office previously considered this evidence in reviewing the merits of his claim.³

¹ 20 C.F.R. § 10.138(b)(1).

² *Id.* at § 10.138(b)(2).

³ Because appellant filed his appeal more than one year after the Office's April 4, 1997 decision, the Board has no jurisdiction to review it. 20 C.F.R. § 501.3(d).

Appellant also submitted a time and attendance record showing approved and disapproved leave without pay from December 1, 1996 to October 1, 1997. Although he had not previously submitted this record, the Board finds that it is, at best, cumulative of evidence previously submitted to support his argument that his physician had not released him to return to work. Even as to this issue the evidence is of questionable relevance, as it is to whether appellant refused an offer of suitable work.

Evidence that repeats or duplicates evidence already in the record has no evidentiary value and constitutes no basis for reopening a case.⁴ Evidence that does not address the particular issue involved also constitutes no basis for reopening a case.⁵ Because appellant's March 31, 1998 request for reconsideration did not meet at least one of the three criteria for obtaining a merit review of his claim, the Board finds that the Office properly denied his request.

The April 20, 1998 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.

June 28, 2000

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

⁴ *Eugene F. Butler*, 36 ECAB 393 (1984); *Bruce E. Martin*, 35 ECAB 1090 (1984).

⁵ *Jimmy O. Gilmore*, 37 ECAB 257 (1985); *Edward Matthew Diekemper*, 31 ECAB 224 (1979).