

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JATERIA C. DAVIS and U.S. POSTAL SERVICE,
POST OFFICE, Detroit, MI

*Docket No. 99-1226; Submitted on the Record;
Issued June 2, 2000*

DECISION and ORDER

Before GEORGE E. RIVERS, 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 case for further review on the merits of her claim under 5 U.S.C. § 8128(a).

On December 12, 1996 appellant, a 19-year-old casual (temporary) clerk, filed a claim for benefits under the Federal Employees' Compensation Act, alleging that she strained her lower back while pulling a mail cart on December 12, 1996. The Office accepted the claim for lumbar strain.

On August 13, 1997 appellant filed a Form CA-2 claim for benefits, alleging that she sustained a recurrence of disability on August 4, 1997 which was caused or aggravated by her December 12, 1996 employment injury.

By decision dated November 26, 1997, the Office denied appellant compensation for a recurrence of disability.

By letter dated January 17, 1998, appellant requested reconsideration. Appellant did not submit any additional medical evidence with her request.

By decision dated February 19, 1998, the Office denied appellant's application for review on the grounds that it neither raised substantive legal questions nor included new and relevant evidence such that it was sufficient to require the Office to review its prior decision.

By letter dated November 15, 1998, appellant requested reconsideration. Appellant did not submit any additional medical evidence with her request.

By decision dated November 30, 1998, the Office denied appellant's application for review on the grounds that it neither raised substantive legal questions nor included new and relevant evidence such that it was sufficient to require the Office to review its prior decision.

The Board finds that the Office did not abuse its discretion by refusing to reopen appellant's case for further review on the merits of her claim under 5 U.S.C. § 8128(a).

Under 20 C.F.R. § 10.138(b)(1), a claimant may obtain review of the merits of his or her claim by showing that the Office erroneously applied or interpreted a point of law; by advancing a point of law or fact not previously considered by the Office; or by 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 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.³

In the present case, appellant has not shown that the Office erroneously applied or interpreted a point of law, and has not advanced a point of law or fact not previously considered by the Office. In addition, appellant failed to submit any new and relevant medical evidence in support of her requests for reconsideration. Therefore, the Office did not abuse its discretion in refusing to reopen appellant's claim for a review on the merits.

Accordingly, the decisions of the Office of Workers' Compensation Programs dated February 19 and November 30, 1998 are affirmed.

Dated, Washington, D.C.
June 2, 2000

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

¹ 20 C.F.R. § 10.138(b)(1); *see generally* 5 U.S.C. § 8128(a).

² 20 C.F.R. § 10.138(b)(2).

³ *Howard A. Williams*, 45 ECAB 853 (1994).