

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of NASEEF S. AMIN and U.S. POSTAL SERVICE,
GENERAL MAIL FACILITY, Flushing, NY

*Docket No. 99-674; Submitted on the Record;
Issued May 26, 2000*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether the Office of Workers' Compensation Programs properly denied appellant's request for reconsideration.

The case has been on appeal previously.¹ In a July 25, 1997 decision, the Board found that appellant had not met his burden of proof in establishing that he had recurrences of disability from December 19 through 21, 1994 and after April 29, 1995 that were causally related to his March 16, 1992 employment injury. The Board stated that only one medical report from Dr. Patricia Tassinari, a Board-certified family practitioner, related appellant's recurrences of disability to his March 16, 1992 employment injury where he sustained costochondritis after dumping a mailbag. The Board found that Dr. Tassinari's report did not explain how appellant's recurrences of disability were caused by the employment injury two to three years previously. The Board, therefore, affirmed the Office's decisions of June 7 and 30 and July 13, 1995.

In a July 15, 1998 letter, appellant requested reconsideration. He submitted evidence related to a recurrence of disability as of October 30, 1992 which he indicated had not been submitted previously. In a November 20, 1998 decision, the Office denied appellant's request for reconsideration on the grounds that the evidence submitted was immaterial and, therefore, insufficient to warrant further review of appellant's claim.

The Board finds that the Office properly denied appellant's request for reconsideration.

Section 8128(a) of the Federal Employees' Compensation Act vests the Office with discretionary authority to determine whether it will review an award for or against compensation, either under its own authority or on application by a claimant. Under 20 C.F.R. § 10.138(b)(1), a claimant may obtain review of the merits of his claim by showing that the Office erroneously applied or interpreted a point of law, advancing a point of law or fact not previously considered

¹ Docket No. 95-2618 (issued July 25, 1997).

by the Office, or submitting relevant and pertinent evidence not previously considered by the Office. 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 Evidence that does not address the particular issue involved also does not constitute a basis for reopening a case.⁴

The evidence submitted by appellant contained several notes from Dr. Tassinari, dated July 5 and 24, 1995, who stated that appellant's recurrent chest pain was due to the March 16, 1992 employment injury. These reports are repetitive of Dr. Tassinari's earlier report which the Board found had no rationale to support the opinion that appellant's recurrent chest pain was causally related to the March 16, 1992 employment injury. Other documents submitted by appellant relate to his claim for a recurrence of disability on October 30, 1992 while lifting heavy mail. Among the reports was a May 11, 1997 form report from Dr. Irvin Spira, a Board-certified orthopedic surgeon, who stated appellant had costochondritis, muscle spasms of the chest and back, neck tenderness and myositis due to the October 30, 1992 incident. This evidence is irrelevant to the issue in this case as Dr. Spira's report did not relate appellant's condition to the March 16, 1992 employment injury and did not discuss whether his claimed recurrences of disability previously denied by the Office were causally related to the March 16, 1992 employment injury. The Office, therefore, properly denied appellant's request for reconsideration as the evidence submitted by appellant was either repetitive of evidence previously submitted or irrelevant to the issue of whether appellant's recurrences of disability in December 1994 and after April 29, 1995 were causally related to the March 16, 1992 employment injury.

² 20 C.F.R. § 10.138(b)(2).

³ *Eugene F. Butler*, 36 ECAB 393, 398 (1984); *Bruce E. Martin*, 35 ECAB 1090, 1093-94 (1984).

⁴ *Edward Matthew Diekemper*, 31 ECAB 224-25 (1979).

The decision of the Office of Workers' Compensation Programs, dated November 20, 1998, is hereby affirmed.

Dated, Washington, D.C.
May 26, 2000

George E. Rivers
Member

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member