U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DAVIDA HORN, claiming as widow of SHELDON HORN and
U.S. POSTAL SERVICE, POST OFFICE, Hicksville, NY

Docket No. 99-2154; Submitted on the Record;
Issued November 3, 2000

DECISION and ORDER

Before MICHAEL J. WALSH, A. PETER KANJORSKI,
VALERIE D. EVANS-HARRELL

The issue is whether the Office of Workers' Compensation Programs abused its discretion by refusing to reopen appellant's claim for consideration of the merits on April 6, 1999.

The Board has duly reviewed the claim on appeal and finds that the Office did not abuse its discretion by refusing to reopen appellant's claim for consideration of the merits.

Appellant requested compensation benefits following the death of the employee on December 9, 1995. The Office accepted that the employee developed major depressive disorder due to factors of his federal employment.[1] By decision dated June 20, 1996, the Office denied appellant's claim finding that she had not submitted sufficient medical evidence to establish a causal relationship between the employee's death on December 9, 1995 due to bronchial pneumonia and his accepted employment condition of major depressive disorder. Appellant requested an oral hearing and by decision dated September 16, 1997, the hearing representative remanded appellant's claim for further development of the medical evidence. After undertaking further medical development, the Office denied appellant's claim for death benefits by decision dated January 12, 1998 finding that the medical evidence did not establish a causal relationship between the employee's employment-related condition and his death. Appellant requested reconsideration of this decision on January 8, 1999. By decision dated April 6, 1999, the Office declined to reopen appellant's claim for merit review finding that she failed to submit relevant new evidence or argument.

The Office's regulations provide that a timely request for reconsideration in writing may be reviewed on its merits if the employee has submitted evidence or argument which shows that

[1] That case was previously on appeal before the Board. In a decision dated May 12, 1993, the Board found that the employee had not met his burden of proof in establishing that his Parkinson's disease was causally related to his federal employment. Docket No. 92-1415 (issued May 12, 1993).

the Office erroneously applied or interpreted a specific point of law; advances a relevant legal argument not previously considered by the Office; or constitutes relevant and pertinent new evidence not previously considered by the Office.[2]

In this case, appellant submitted a medical report dated October 20, 1997. This report was reviewed by the Office prior to the January 12, 1998 decision and therefore is not new evidence not previously considered by the Office. Material, which is repetitious or duplicative of that already in the case record, has no evidentiary value in establishing a claim and does not constitute a basis for reopening a case.[3]

Appellant also submitted a statement dated January 6, 1999 in which she analyzed the medical evidence.[4] Appellant disagreed with conclusions in the medical evidence and with the Office's analysis of such evidence. However, as appellant is not a physician, her interpretation of the medical evidence is not sufficient to constitute new evidence nor is it sufficient to establish that the Office erroneously applied or interpreted a specific point of law; nor does it advance a relevant legal argument not previously considered by the Office.

Appellant noted that the Office did not specifically mention all of the medical reports which had been included in the record in its decisions and in the statement of accepted facts. The Board notes that the Office is not required to address each piece of evidence submitted in its decisions.[5] Furthermore, the statement of accepted facts is accompanied by the medical record, which would allow a physician to review all the medical evidence of record.

As appellant has failed to submit relevant new medical evidence from a physician addressing the causal relationship between the employee's accepted condition of major depression and the stated cause of death of bronchial pneumonia, the evidence submitted is insufficient to require the Office to reopen appellant's claim for review of the merits. Furthermore, appellant's disagreement with the medical reports from Office physicians and her disagreement with the analysis of the medical evidence by the Office is not sufficient to constitute a new legal argument requiring the Office to reopen her claim.

[2] 5 U.S.C. §§ 10.609(a) and 10.606(b).

[3] *See Kenneth R. Mroczkowski*, 40 ECAB 855, 858 (1989); *Marta Z. DeGuzman*, 35 ECAB 309 (1983); *Katherine A. Williamson*, 33 ECAB 1696, 1705 (1982).

[4] Appellant had previously noted that she had a master's degree in Health Care Administration and a bachelor's degree in psychology. She stated that she felt that she was qualified to offer an opinion on the cause-effect relationship of the employee's condition. The Board notes that the Federal Employees' Compensation Act provides that the definition of physician includes clinical psychologists. 5 U.S.C. §§ 8101-8193, 8101(2). Appellant has not asserted that she is a clinical psychologist and is not a physician for the purposes of the Act.

[5] *Merlind K. Cannon*, 46 ECAB 581, 592-93 (1995).

The April 6, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
November 3, 2000

Michael J. Walsh
Chairman

A. Peter Kanjorski
Alternate Member

Valerie D. Evans-Harrell
Alternate Member