

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOHN P. BLOW and U.S. POSTAL SERVICE,
POST OFFICE, Jacksonville, FL

*Docket No. 00-1261; Submitted on the Record;
Issued April 12, 2001*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs properly denied appellant's December 8, 1999 request for reconsideration.

In the prior appeal of this case,¹ the Board found that appellant failed to establish that his disability for work between January 10 and March 31, 1996 was causally related to his accepted shoulder injury.² The Board reviewed reports from appellant's initial physician, Dr. Bruce A. Hartwig and his subsequent physician, Dr. Robert Silvera. Although the Office had informed appellant of the type of evidence needed to establish his claim, the Board found that appellant submitted no rationalized medical evidence addressing his capacity for work during the period January 10 through March 31, 1996. The facts as set forth in the Board's prior decision are hereby incorporated by reference.

On December 8, 1999 appellant requested reconsideration. In support thereof he submitted a January 25, 1996 report from Dr. Hartwig who reported that appellant "seems to feel" that his left shoulder discomfort is aggravated by rotating his shoulder to the left to pick up mail from a sorting tray "which started in the fall." After relating his findings on examination, Dr. Hartwig reported his impression as follows:

"[Appellant's] focal left shoulder pain most likely is a tendinitis and probably related to the repetitive external rotation of his shoulder. I have suggested that he limit his work to casing only. I will arrange a cervical (MRI) [magnetic resonance imaging] scan to rule out a cervical disc problem as the etiology for [appellant's] left shoulder atrophy which is of uncertain duration. A follow-up visit is arranged and I will keep you informed with a follow-up letter."

¹ Docket No. 98-169 (issued October 4, 1999).

² The Office accepted appellant's claim for left shoulder impingement syndrome and later expanded the acceptance to include consequential headaches.

In a decision dated February 23, 2000, the Office denied appellant's request for reconsideration on the grounds that the evidence submitted in support thereof was cumulative and therefore insufficient to warrant review of its prior decision.

The Board finds that the Office acted within its discretion in denying appellant's December 8, 1999 request for reconsideration.

Section 10.606(b) of the Code of Federal Regulations³ provides that an application for reconsideration, including all supporting documents, must: (1) be submitted in writing and; (2) set forth arguments and contain evidence that either (i) shows that the Office erroneously applied or interpreted a specific point of law, (ii) advances a relevant legal argument not previously considered by the Office or (iii) constitutes relevant and pertinent new evidence not previously considered by the Office. Section 10.608(b) provides that where the request is timely but fails to meet at least one of the standards described in section 10.606(b)(2), the Office will deny the application for reconsideration without reopening the case for a review on the merits.⁴

Appellant's December 8, 1999 request for reconsideration fails to meet at least one of the standards described in section 10.606(b)(2). To support his request, he submitted a January 25, 1996 narrative report from Dr. Hartwig. The report constitutes new evidence but is cumulative or repetitious of evidence previously submitted and considered. The Board noted in its October 4, 1999 decision that the record already contained a January 25, 1996 prescription form from Dr. Hartwig limiting appellant's work to casing only. Additional prescription slips from the same period noted that appellant's shoulder was being further evaluated. Evidence that repeats or duplicates evidence already in the record has no evidentiary value and constitutes no basis for reopening a case.⁵ Further, Dr. Hartwig offered no rationalized medical opinion on whether appellant's disability for work during the period January 10 through March 31, 1996 was causally related to his employment injury, which the Office accepted for impingement syndrome and headaches. To this extent the evidence submitted to support appellant's request for reconsideration is irrelevant to the grounds on which the Office denied his claim. Evidence that does not address the particular issue involved also constitutes no basis for reopening a case.⁶

³ 20 C.F.R. § 10.606(b).

⁴ *Id.* at § 10.608(b).

⁵ *Eugene F. Butler*, 36 ECAB 393 (1984); *Bruce E. Martin*, 35 ECAB 1090 (1984).

⁶ *Jimmy O. Gilmore*, 37 ECAB 257 (1985); *Edward Matthew Diekemper*, 31 ECAB 224 (1979).

The February 23, 2000 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
April 12, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member