

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MODENE MANSFIELD and DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE, Houston, TX

*Docket No. 00-504; Submitted on the Record;
Issued February 13, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs abused its discretion in denying appellant's request for reconsideration.

On May 15, 1996 appellant, then a 54-year-old revenue officer, filed an occupational disease claim alleging that she sustained an aggravation of her multiple sclerosis due to job stress. The Office accepted her claim on September 6, 1996.

By decision dated March 13, 1997, the Office rescinded its acceptance of appellant's claim based upon new evidence which established that appellant's condition was not sustained while in the performance of duty.

By decision dated July 24, 1997, an Office hearing representative affirmed the Office's March 13, 1997 decision.

By decision dated May 5, 1998, the Office denied modification of its July 24, 1997 decision.

By letter dated April 24, 1999, appellant requested reconsideration and submitted additional evidence.

By decision dated July 29, 1999, the Office denied appellant's request for reconsideration.

The Board's jurisdiction to consider and decide appeals from final decisions of the Office extends only to those final decisions issued within one year prior to the filing of the appeal.¹ As appellant filed her appeal with the Board on October 26, 1999, the only decision properly before

¹ 20 C.F.R. §§ 501.2(c), 501.3(d)(2).

the Board is the Office's July 29, 1999 decision denying her request for reconsideration. The Board has no jurisdiction to consider the Office's March 13, 1997 decision rescinding its acceptance of appellant's claim for aggravation of multiple sclerosis or the Office's May 5, 1998 decision denying modification of its March 13, 1997 decision.²

The Board finds that the Office did not abuse its discretion in denying appellant's request for reconsideration.

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 specific point of law; or (2) advancing a relevant legal argument not previously considered by the Office; or (3) submitting relevant and pertinent evidence not previously considered by the Office.³ When an application for review of the merits of a claim does not meet at least one of these requirements, the Office will deny the application for review without reviewing the merits of the claim.⁴

In support of her April 24, 1999 request for reconsideration, appellant submitted evidence previously of record and considered by the Office. Therefore, this evidence does not constitute new relevant and pertinent evidence not previously considered by the Office and it is not sufficient to require further merit review of the case.⁵

Appellant also argued that the Office's May 5, 1998 decision contained an error in that it related that she stopped work on April 30, 1996 but she actually stopped work on May 15, 1996. She submitted copies of pay records. However, even if such an error was made, it has no bearing on the issue of whether factors of appellant's employment aggravated her multiple sclerosis. Therefore, this evidence does not constitute relevant and pertinent evidence not previously considered by the Office and is not sufficient to require further merit review.

As appellant did not show that the Office erroneously applied or interpreted a specific point of law; did not advance a relevant legal argument not previously considered by the Office, and did not submit relevant and pertinent evidence not previously considered by the Office, the Office was within its discretion in denying her request for reconsideration.

² *Leon D. Faidley, Jr.*, 41 ECAB 104, 108-09 (1989).

³ 20 C.F.R. § 10.606(b)(2) (1999).

⁴ 20 C.F.R. § 10.608(b) (1999).

⁵ *See James A. England*, 47 ECAB 115 (1995) (material which is repetitious or duplicative of that already of record does not constitute a basis for reopening a case).

The decision of the Office of Workers' Compensation Programs dated July 29, 1999 is affirmed.

Dated, Washington, DC
February 13, 2001

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member