

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOYCE BROWN and U.S. POSTAL SERVICE,
AUBURN PARK POST OFFICE, Chicago, IL

*Docket No. 00-1923; Submitted on the Record;
Issued June 1, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

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.

Appellant, a 33-year-old letter carrier, filed a notice of traumatic injury on May 8, 1991 alleging that on May 7, 1991 she fell in the performance of duty injuring her right leg and spine. The Office accepted appellant's claim for lumbar strain on June 7, 1991. Appellant filed a notice of recurrence of disability on November 18, 1991 alleging that on November 7, 1991 she sustained a recurrence of disability due to her accepted employment injury. The Office accepted this claim and entered appellant on the periodic rolls on March 16, 1992. Appellant returned to work on November 15, 1993. On January 26, 1994 appellant indicated that she was disabled beginning January 18, 1994.

By decision dated June 22, 1995, the Office terminated appellant's compensation benefits effective December 12, 1994. Appellant requested reconsideration on July 12, 1995 and the Office denied modification of its June 22, 1995 decision on October 20, 1995. Appellant again requested reconsideration on January 12, 1996 and by decision dated May 8, 1996 the Office again reviewed appellant's claim on the merits and again denied the claim finding no disability. Appellant requested reconsideration on November 10, 1999 and submitted evidence that she had previously requested reconsideration on July 29, 1996. By decision dated February 3, 2000, the Office declined to reopen appellant's claim for consideration of the merits.

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

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 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.¹

In this case, on November 10, 1999, appellant submitted evidence consisting of a photocopy of a request for reconsideration dated July 29, 1996 and medical evidence consisting of reports from Dr. Jagan K. Mohan, a neurologist. The issue in the case is whether appellant has any continuing disability due to her accepted employment-related injury on or after December 12, 1994.

The record contains reports from Dr. Mohan previously reviewed by the Office. The additional reports do not contain relevant new evidence not considered by the Office as Dr. Mohan provides a consistent diagnosis and opinion that appellant is disabled. As this information was contained in his previous reports, the additional reports are cumulative and not sufficient to require the Office to reopen appellant's claim for consideration of the merits.

The February 3, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
June 1, 2001

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member

¹ 5 U.S.C. §§ 10.609(a) and 10.606(b).