

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PAMELA L. MacKENZIE and U.S. POSTAL SERVICE,
POST OFFICE, Carol Stream, IL

*Docket No. 00-2251; Submitted on the Record;
Issued June 4, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether the Office of Workers' Compensation Programs properly denied appellant's September 10, 1999 request for reconsideration.

In a decision dated August 17, 1998, the Office terminated appellant's compensation effective September 12, 1998 on the grounds that she refused a suitable job offer without justification. The Office noted that appellant's physicians has failed to submit any medical rationale to support their opinion that appellant should be restricted to a day shift as a result of her accepted condition.

In a decision dated March 1, 1999, an Office hearing representative affirmed the termination of appellant's compensation. The hearing representative addressed appellant's objection to the job offer, namely, that the medical evidence indicated that she should return to day work.

On September 10, 1999 appellant requested reconsideration. She argued that neither the employing establishment nor the Office was within its rights to ignore her doctors' recommendations and that she was entitled to reasonable accommodation under the Rehabilitation Act of 1973. Appellant submitted attending physician's supplemental form reports.

In a decision dated March 20, 2000, the Office denied appellant's request for reconsideration on the grounds that her arguments were irrelevant and immaterial and that the evidence she submitted was cumulative and insufficient to warrant a review of its prior decision.

The Board finds that the Office properly denied appellant's September 10, 1999 request for reconsideration.

Section 10.606(b) of the Code of Federal Regulations¹ provides that an application for reconsideration, including all supporting documents, must be submitted in writing and set forth

¹ 20 C.F.R. § 10.606(b).

arguments and contain evidence that either (1) shows that the Office erroneously applied or interpreted a specific point of law, (2) advances a relevant legal argument not previously considered by the Office or (3) constitutes relevant and pertinent new evidence not previously considered by the Office. The request may be granted if the Office determines that the employee has presented evidence or argument that meets at least one of these standards. If the Office grants reconsideration, the case is reopened and reviewed on its merits. Where the request fails to meet at least one of the standards described, the Office will deny the application for reconsideration without reopening the case for a review on the merits.²

Appellant's September 10, 1999 request for reconsideration fails to meet at least one of the standards described. The Office previously addressed her argument concerning the restriction to day work. Whether she is entitled to reasonable accommodation under another statute is irrelevant or immaterial to whether she is entitled to continuing compensation under section 8106(c) of the Federal Employees' Compensation Act.³ The attending physician's supplemental form reports are cumulative of evidence previously considered by the Office. As appellant's request fails to meet at least one of the standards described, the Office properly acted within its discretion in denying her request without reopening the case for a review on the merits.

The March 20, 2000 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
June 4, 2001

Michael J. Walsh
Chairman

David S. Gerson
Member

Willie T.C. Thomas
Member

² *Id.* at § 10.608.

³ 5 U.S.C. § 8106(c).