

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of RONALD L. SIMPSON and DEPARTMENT OF VETERANS AFFAIRS,  
VETERANS ADMINISTRATION MEDICAL CENTER, Los Angeles, CA

*Docket No. 00-728; Submitted on the Record;  
Issued September 17, 2001*

---

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
BRADLEY T. KNOTT

The issue is whether the Office of Workers' Compensation Programs abused its discretion by refusing to reopen appellant's claim for further review on the merits under 5 U.S.C. § 8128(a).

This is the second time this case has been before the Board. To briefly summarize the facts, appellant filed a claim for benefits based on an emotional condition on April 28, 1980, which the Office accepted on June 7, 1983 for incremental anxiety and depression. By decision dated October 27, 1995, the Office found that appellant's accepted psychiatric/emotional condition had resolved as of November 11, 1995 and terminated his compensation effective November 12, 1995. By letter dated July 12, 1996, appellant requested reconsideration of the Office's October 27, 1995 decision. The Office denied appellant's requests for review of the October 27, 1995 termination decision in nonmerit decisions dated July 17, 1996 and February 18, 1997. In a decision issued April 21, 1999,<sup>1</sup> the Board found that the Office, in its February 18, 1997 decision, did not abuse its discretion in refusing to reopen appellant's case for a merit review under 5 U.S.C. § 8128(a).

By letters received by the Office on July 1 and 30, 1999, appellant requested reconsideration. In support of his request, appellant submitted a May 15, 1997 statement from Persie Nolan, a registered nurse who indicated that she witnessed a physical altercation between appellant and her coworker on November 6, 1978.

By decision dated September 21, 1999, the Office denied appellant's application for review on the grounds that it neither raised substantive legal questions nor included new and relevant evidence sufficient to require the Office to review its prior decision.

---

<sup>1</sup> Docket No. 97-1288 (issued April 21, 1999).

The Board finds that the Office did not abuse its discretion by refusing to reopen appellant's case for further review on the merits of her claim under 5 U.S.C. § 8128(a).

Under 20 C.F.R. § 10.607, a claimant may obtain review of the merits of his or her claim by: showing that the Office erroneously applied or interpreted a specific point of law; by advancing a relevant legal argument not previously considered by the Office; or by submitting relevant and pertinent evidence not previously considered by the Office.<sup>2</sup> Evidence that repeats or duplicates evidence already in the case record has no evidentiary value and does not constitute a basis for reopening a case.<sup>3</sup>

In the present case, appellant has not shown that the Office erroneously applied or interpreted a specific point of law; he has not advanced a relevant legal argument not previously considered by the Office; and his request did not contain any new and relevant medical evidence for the Office to review. Although appellant submitted the witness statement from Ms. Nolan, this document is not relevant and pertinent to the issue at hand, *i.e.*, whether appellant continued to experience residuals of his accepted psychiatric/emotional condition subsequent to November 11, 1995. Thus, his request did not contain any new and relevant medical evidence for the Office to review. Additionally, appellant's July 1 and 30, 1999 letters failed to show that the Office erroneously applied or interpreted a point of law nor did they advance a point of law or fact not previously considered by the Office. Although appellant generally contended that he is currently disabled due to his accepted condition, he failed to submit new and relevant medical evidence in support of this contention. Therefore, the Office did not abuse its discretion in refusing to reopen appellant's claim for a review on the merits.

The decision of the Office of Workers' Compensation Programs dated September 21, 1999 is hereby affirmed.

Dated, Washington, DC  
September 17, 2001

David S. Gerson  
Member

Willie T.C. Thomas  
Member

Bradley T. Knott  
Alternate Member

---

<sup>2</sup> 20 C.F.R. § 10.607(b)(1). *See generally* 5 U.S.C. § 8128(a).

<sup>3</sup> *Howard A. Williams*, 45 ECAB 853 (1994).