

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOAN F. MARTIN and U.S. POSTAL SERVICE,
POST OFFICE, Los Altos, CA

*Docket No. 01-1313; Submitted on the Record;
Issued April 9, 2002*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, 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 case for further review on the merits of her claim under 5 U.S.C. § 8128(a).

This case was presented to the Board on a prior occasion. Appellant sustained a work-related thoracolumbar back strain and right shoulder impingement, which were accepted by the Office. Appellant filed several claims for continuing compensation based on her accepted conditions, and received intermittent compensation from the Office. By decision dated May 24, 1995, an Office hearing representative affirmed the previous Office decision finding that appellant failed to establish that she sustained a recurrence of disability. By decision dated September 24, 1997, the Office denied appellant's request for reconsideration on the grounds that it was untimely and did not demonstrate clear evidence of error. In a decision and order dated October 13, 1999, the Board found that appellant's request for reconsideration of the May 24, 1995 decision was timely filed, but affirmed the September 24, 1997 decision on the grounds 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).¹

By letter dated October 6, 2000, appellant's representative requested reconsideration of the May 24, 1995 Office decision. Appellant did not submit any new factual or medical evidence with her request.

By decision dated January 23, 2001, 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.

¹ Docket No. 98-687 (issued October 13, 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. § 10.606, 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.² 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.³

In the present case, appellant has not shown that the Office erroneously applied or interpreted a specific point of law; she has not advanced a relevant legal argument not previously considered by the Office; and she has not submitted relevant and pertinent evidence not previously considered by the Office. Thus, her request did not contain any new and relevant evidence for the Office to review. Additionally, the October 6, 2000 letter from appellant's representative failed to show the Office erroneously applied or interpreted a point of law nor did it advance a point of law not previously considered by the Office. Although appellant generally contended that she was entitled to compensation based on loss of wages for specified periods, she 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 January 23, 2001 is hereby affirmed.

Dated, Washington, DC
April 9, 2002

Colleen Duffy Kiko
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

² 20 C.F.R. § 10.606. *See generally* 5 U.S.C. § 8128(a).

³ *Howard A. Williams*, 45 ECAB 853 (1994).