

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CARLTON R. BROWN and U.S. POSTAL SERVICE,
BULK MAIL CENTER, Hazelwood, MO

*Docket No. 01-2054; Submitted on the Record;
Issued April 10, 2002*

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether the Office of Workers' Compensation Programs properly refused to reopen appellant's case for further review of the merits of his claim under 5 U.S.C. § 8128(a).

This case has been before the Board on two prior appeals. By decision and order dated April 29, 1992, the Board found that appellant had not established that he sustained a permanent impairment to his right hand, middle finger as a result of his November 1, 1987 employment injury.¹

By letter dated December 9, 1999, appellant requested reconsideration of the decisions denying his claim for a schedule award and submitted a report dated May 9, 1988 from Dr. Farida Farzana stating that he had a 10 percent permanent impairment of the right middle finger. By decision dated March 29, 2000, the Office found that appellant's request for reconsideration was not timely filed and did not present clear evidence of error.

Appellant appealed this decision to the Board. By decision and order dated April 9, 2001, the Board found that appellant's request for reconsideration was not timely filed and did not present clear evidence of error.²

By undated letter received by the Office on May 9, 2001, appellant requested reconsideration by the Office of the decisions denying his claim for a schedule award and submitted a report from Dr. Farzana dated May 9, 1988.

By decision dated June 7, 2001, the Office found that the additional evidence was not sufficient to warrant review of its prior decisions.

¹ Docket No. 91-1961.

² Docket No. 00-1667.

The Board finds that the Office properly refused to reopen appellant's case for further review of the merits of his claim under 5 U.S.C. § 8128(a).

Section 8128(a) of the Federal Employees' Compensation Act vests the Office with discretionary authority to determine whether it will review an award for or against compensation:

“The Secretary of Labor may review an award for or against payment of compensation at any time on his own motion or on application. The Secretary, in accordance with the facts found on review may --

(1) end, decrease, or increase the compensation awarded; or

(2) award compensation previously refused or discontinued.”

Under 20 C.F.R. § 10.606(b)(2), 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 new evidence not previously considered by the Office. Section 10.608(b) provides that when an application for review of the merits of a claim does not meet at least one of these three requirements the Office will deny the application for review without reviewing the merits of the claim. 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

Appellant's request for reconsideration received on May 9, 2001 does not contain any legal argument or argument that the Office erroneously applied or interpreted a point of law. The only new evidence submitted with this request for reconsideration was a May 9, 1988 report from Dr. Farzana. This report was essentially repetitive of another May 9, 1988 report from Dr. Farzana that was previously considered by the Office. As such, it is insufficient to require the Office to reopen the case for further review of the merits of appellant's claim.

³ *Eugene F. Butler*, 36 ECAB 393 (1984).

The decision of the Office of Workers' Compensation Programs dated June 7, 2001 is affirmed.

Dated, Washington, DC
April 10, 2002

Alec J. Koromilas
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member