

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JEFFRI D. BLAKESLEE and DEPARTMENT OF HEALTH & HUMAN SERVICES SOCIAL SECURITY ADMINISTRATION, San Francisco, CA

*Docket No. 01-1240; Submitted on the Record;
Issued February 7, 2002*

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 request for reconsideration under 5 U.S.C. § 8128(a).

The Board has duly reviewed the case record in the present appeal and finds that the refusal of the Office to reopen appellant's case for further consideration of the merits of his claim pursuant to 5 U.S.C. § 8128(a), did not constitute an abuse of discretion.

The Board's jurisdiction to consider and decide appeals from a final decision of the Office extends only to those final decisions issued within one year prior to the filing of the appeal.¹ As appellant filed the appeal with the Board on April 3, 2001, the only decision before the Board is the Office's April 7, 2000 decision, denying appellant's request for reconsideration.²

To require the Office to reopen a case for merit review under section 8128(a) of Federal Employees' Compensation Act, the Office's regulations provide that the application for reconsideration, including all supporting documents, must set forth 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.³ A timely request for reconsideration may be granted if the Office determines that the employee has

¹ *Oel Noel Lovell*, 42 ECAB 537 (1991); 20 C.F.R. §§ 501.2(c), 501.3(d)(2).

² In an Order Dismissing Appeal dated February 25, 2000, the Board dismissed appellant's appeal dated December 16, 1998 in response to appellant's request to withdraw the appeal and request reconsideration before the Office.

³ Section 10.606(b)(2)(i-iii).

presented evidence and/or arguments that meets at least one of the standards described in section 10.606(b)(2).⁴

The Office accepted appellant's claim for right shoulder contusion, right leg contusion, right trapezius strain, right knee strain and scalp contusion. By decision dated September 11, 1997, the Office found that appellant did not establish that she sustained an injury on January 8, 1997 causing blurred vision and headaches. By decision dated October 22, 1997, the Office terminated appellant's compensation benefits effective October 22, 1997 because appellant had recovered from all accepted work conditions. The Office subsequently denied appellant's requests for modification of the September 11 and October 22, 1997 decisions on February 18, May 6 and November 9, 1998.

By letter dated August 6, 1999, appellant requested reconsideration of the Office's decision and submitted additional evidence consisting of two medical reports from her treating physician, Dr. Carol Van Petten, a neurologist, dated June 23 and August 26, 1998. She also submitted a letter from an appeal specialist, Mia Hepler, with the Office of Personnel Management, dated February 19, 1999, regarding the approval of appellant's disability retirement benefits and related administrative matters. Appellant, through her representative, contended that she was entitled to benefits because her disability retirement had been approved, that in another district the Office approved a claim for appellant's condition, postconcussion syndrome and the policies and standards should be uniform and that the medical evidence established the causal relationship between appellant's injury and her fall and continuing disability.

By decision dated April 7, 2000, the Office denied appellant's request for reconsideration.

Dr. Petten's June 23 and August 26, 1998 medical reports were previously in the record. The fact that appellant's disability retirement benefits were approved is not relevant to whether appellant established her entitlement to benefits under the Act.⁵ Further, whether a claimant in another district obtained benefits for appellant's condition is not relevant to appellant's entitlement for her condition.⁶ Appellant's other arguments regarding causation were previously raised.

Inasmuch as appellant has not shown that the Office erroneously applied or interpreted a specific point of law and did not advance a relevant legal argument or present relevant and pertinent new evidence not previously considered by the Office, the Office acted within its discretion in denying her request for reconsideration.

⁴ Section 10.608(a).

⁵ See *Irene St. John*, 50 ECAB 521-22 (1999); *George A. Johnson*, 43 ECAB 712, 718 n. 10 (1992).

⁶ See *George A. Johnson*, *supra* note 5.

The Office of Workers' Compensation Programs' April 7, 2000 decision is hereby affirmed.

Dated, Washington, DC
February 7, 2002

Michael J. Walsh
Chairman

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member