

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LUNETTE A. JONES and DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE, Richmond, VA

*Docket No. 01-1631; Submitted on the Record;
Issued February 5, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, 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 claim for further review on the merits under 5 U.S.C. § 8128(a).

On July 17, 1996 appellant, a 46-year-old contact representative, injured her right shoulder and upper back when she fell from her chair. She filed a claim for benefits on the date of injury, which the Office accepted for cervical strain on January 31, 1997.

On April 26, 1999 appellant filed a CA-2 claim for recurrence of disability, alleging that her condition or disability as of February 11, 1998 was caused or aggravated by her July 17, 1996 employment injury.

By decision dated November 26, 1999, the Office denied appellant's claim for recurrence of disability, finding that she failed to submit rationalized medical evidence sufficient to establish that the claimed condition or disability as of February 11, 1998 was caused or aggravated by the accepted July 17, 1996 employment injury.

By letter postmarked January 5, 2000, appellant requested an oral hearing.

In a decision dated February 23, 2000, the Office found that appellant's request for an oral hearing was untimely filed. The Office noted that appellant's request was postmarked January 5, 2000, which was more than 30 days after the issuance of the Office's November 26, 1999 decision, and that she was therefore not entitled to a hearing as a matter of right. The Office nonetheless considered the matter in relation to the issue involved and denied appellant's request on the grounds that the issue was factual and medical in nature and could be addressed through the reconsideration process by submitting additional evidence.

By letter dated November 13, 2000, appellant requested reconsideration of the November 26, 1999 Office decision. Appellant did not submit any additional medical evidence in support of her request.

By decision dated March 8, 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.

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.¹ 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.²

In this 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. The evidence appellant submitted was either previously considered and rejected by the Office in prior decisions, or is not pertinent to the issue on appeal. Additionally, appellant's letter failed to show that the Office erroneously applied or interpreted a point of law nor did it advance a point of law or fact not previously considered by the Office. Therefore, the Office acted within its discretion in refusing to reopen appellant's claim for a review on the merits.

¹ 20 C.F.R. § 10.607(b)(1). *See generally* 5 U.S.C. § 8128(a).

² *Howard A. Williams*, 45 ECAB 853 (1994).

The decision of the Office of Workers' Compensation Programs dated March 8, 2001 is hereby affirmed.

Dated, Washington, DC
February 5, 2002

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member