

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DOLLY N. BLANCHARD and U.S. POSTAL SERVICE,
POST OFFICE, Hepzibah, GA

*Docket No. 00-1824; Oral Argument Held November 15, 2001;
Issued January 4, 2002*

Appearances: *Lester L. Bates, Jr., Esq.*, for appellant; *Thomas G. Giblin, Esq.*,
for the Director, Office of Workers Compensation Programs.

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether the Office of Workers Compensation Programs properly denied appellant's request for reconsideration.

The Board has reviewed the entire case record in this appeal and finds that the Office properly denied appellant's request for reconsideration.

The Code of Federal Regulations provides that a claimant may obtain review of the merits of the claim by: (1) showing that the Office erroneously applied or interpreted a specific point of law; or (2) advancing a relevant legal argument not previously considered by the Office; or (3) submitting relevant and pertinent evidence not previously considered by the Office.¹ When an application for review of the merits of a claim does not meet at least one of these requirements, the Office will deny the application for review without reviewing the merits of the claim.²

The Board's jurisdiction to consider and decide appeals from final decisions of the Office extends only to those final decisions issued within one year prior to the filing of the appeal.³ As appellant filed her appeal with the Board on April 18, 2000, the only decision properly before the Board is the Office's January 13, 2000 decision denying appellant's request for reconsideration.

¹ 20 C.F.R. § 10.606(b)(2) (1999).

² 20 C.F.R. § 10.608(b) (1999).

³ 20 C.F.R. §§ 501.2(c); 501.3(d)(2).

The Board has no jurisdiction to review the Office's December 2, 1998 or August 28, 1997 decisions denying appellant's claim for an emotional condition.⁴

On April 10, 1997 appellant, then a 53-year-old rural carrier, filed an occupational disease claim alleging that she sustained an emotional condition in the performance of duty causally related to factors of her employment.

By decision dated August 28, 1997, the Office denied appellant's claim on the grounds that she had failed to establish that her emotional condition was causally related to factors of her employment.

By letter dated June 17, 1998, appellant requested reconsideration.

By decision dated December 2, 1998, the Office denied modification of its August 28, 1997 decision.

By letter dated November 29, 1999, appellant requested reconsideration and submitted additional evidence.

By decision dated January 13, 2000, the Office denied appellant's request for reconsideration on the grounds that appellant did not submit relevant and pertinent evidence not previously considered by the Office nor raised substantive legal questions or arguments not previously considered showing that the December 2, 1998 Office decision was erroneous.

With her November 29, 1999 request for reconsideration, appellant submitted a November 6, 1998 letter from the Office of Personnel Management approving her application for disability retirement. However, approval of a disability claim by another federal agency under its rules and regulations is not determinative of a claimant's entitlement to compensation under the Federal Employees' Compensation Act.⁵ Therefore, this evidence does not constitute relevant and pertinent evidence not previously considered by the Office.

Appellant submitted a report from Dr. John C. Whitley, a psychiatrist, and notes from her mental health therapist regarding counseling sessions to treat her emotional condition. However, this medical evidence does not constitute relevant and pertinent evidence not previously considered because the Office has not accepted that appellant's emotional condition was causally related to any factors of her employment. Unless appellant alleges a compensable factor of employment substantiated by the record, it is unnecessary to address the medical evidence⁶

In her November 29, 1999 request for reconsideration, appellant argued that the Office's December 2, 1998 decision erred in denying her claim based on her arrest for shoplifting on January 29, 1997 and her alleged false entry on her January 31, 1997 timesheet, incidents which resulted in her removal from her position by the employing establishment. She argued that these

⁴ See *Leon D. Faidley, Jr.*, 41 ECAB 104, 108-09 (1989).

⁵ See *Daniel Deparini*, 44 ECAB 657, 659-60 (1993).

⁶ See *Garry M. Carlo*, 47 ECAB 299, 305 (1996).

two events had not been established as factual. However, a review of the Office's December 2, 1998 decision reveals that these two events were not the reason that appellant's claim was denied. Therefore, this argument does not constitute a pertinent and relevant legal argument not previously considered by the Office.

As appellant did not show that the Office erroneously applied or interpreted a specific point of law, did not advance a relevant legal argument not previously considered by the Office, and did not submit relevant and pertinent evidence not previously considered by the Office, the Office properly denied her request for reconsideration.

The decision of the Office of Workers' Compensation Programs dated January 13, 2000 is affirmed.

Dated, Washington, DC
January 4, 2002

David S. Gerson
Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member