

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WILLIAM S. SANDERSON and U.S. POSTAL SERVICE,
POST OFFICE, Tupelo, MS

*Docket No. 01-1171; Submitted on the Record;
Issued January 15, 2002*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issues are: (1) whether appellant established that he sustained an emotional condition in the performance of duty; and (2) whether the Office of Workers' Compensation Programs properly denied reconsideration of the claim.

The Board has given careful consideration to the issues involved in the case, the contentions of the parties on appeal and the entire case record. The Board finds that decision of the Office hearing representative, dated November 9, 2000 and finalized on November 13, 2000, is in accordance with the facts and the law in this case and hereby adopts the findings and conclusions of the hearing representative.

Additionally, the Board finds that the Office properly denied appellant's request for reconsideration under 5 U.S.C. § 8128.

Section 8128(a) of the Federal Employees' Compensation Act vests the Office with the discretionary authority to determine whether it will review an award for or against compensation.¹ The regulations provide 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 new evidence not previously considered by the Office.² 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 Evidence that does not address the

¹ 5 U.S.C. § 8128; *see Jesus D. Sanchez*, 41 ECAB 964 (1990); *Leon D. Faidley, Jr.*, 41 ECAB 104 (1989).

² 20 C.F.R. § 10.606(b) (1999).

³ *Eugene F. Butler*, 36 ECAB 393, 398 (1984); *Bruce E. Martin*, 35 ECAB 1090, 1093-94 (1984).

particular issue involved also does not constitute a basis for reopening a case.⁴ Where a claimant fails to submit relevant evidence not previously of record or advance legal contentions not previously considered it is a matter of discretion on the part of the Office to reopen a case for further consideration under section 8128 of the Act.⁵

In this case, appellant filed a request for reconsideration on December 9, 2000. However, he did not advance a legal argument not previously considered by the Office, nor did he show that the Office erroneously interpreted or applied a specific point of law in denying his claim for compensation. Appellant likewise did not submit any new or relevant evidence. Inasmuch as appellant failed to satisfy the requirements of section 8128, the Board concludes that his request for reconsideration was properly denied by the Office.

Accordingly, the decisions of the Office of Workers' Compensation Program dated February 5, 2001 and November 9, 2000 and finalized November 13, 2000 are hereby affirmed.

Dated, Washington, DC
January 15, 2002

David S. Gerson
Member

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member

⁴ *Edward Matthew Diekemper*, 31 ECAB 224 (1979).

⁵ *Gloria Scarpelli-Norman*, 41 ECAB 815 (1990); *Joseph W. Baxter*, 36 ECAB 228 (1984).