

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of IRVING WEISS and DEPARTMENT OF THE TREASURY,  
INTERNAL REVENUE SERVICE, Plantation, FL

*Docket No. 01-1262; Submitted on the Record;  
Issued January 3, 2002*

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DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,  
PRISCILLA ANNE SCHWAB

The issue is whether the Office of Workers' Compensation Programs properly denied appellant's request for reconsideration without merit review of the claim.

In a decision dated February 12, 2001, the Board affirmed decisions of the Office dated October 14, 1999 and December 24, 1998.<sup>1</sup> The Board found that appellant had not submitted sufficient medical evidence to establish intermittent periods of disability after April 6, 1998 causally related to his January 5, 1998 employment injury. The history of the case is incorporated herein by reference.

In an undated letter received by the Office on March 21, 2001, appellant requested reconsideration of his claim. He stated that he did not understand why his claim had been denied, as he had submitted all necessary evidence. In a decision dated March 29, 2001, the Office determined that appellant's request for reconsideration was insufficient to warrant merit review of the claim.

It is well established that an appeal must be filed no later than one year from the date of the Office's final decision.<sup>2</sup> As appellant filed his appeal on April 9, 2001, the only decision over which the Board has jurisdiction on this appeal is the March 29, 2001 decision denying his request for reconsideration.

The Board finds that the Office properly denied appellant's request for reconsideration without merit review of the claim.

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<sup>1</sup> Docket No. 00-545 (issued February 12, 2001).

<sup>2</sup> See 20 C.F.R. § 501.3(d).

To require the Office to reopen a case for merit review under section 8128(a) of the Federal Employees' Compensation Act,<sup>3</sup> the Office's 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.<sup>4</sup> Section 10.608(b) states that any application for review that does not meet at least one of the requirements listed in section 10.606(b)(2) will be denied by the Office without review of the merits of the claim.<sup>5</sup>

The underlying issue in the case was a medical issue; the Board found that appellant had not submitted sufficient medical evidence to establish his claim for disability after April 6, 1998. Appellant did not submit new and relevant medical evidence with his reconsideration request. The Board finds that appellant did not meet any of the requirements of section 10.606(b)(2), and therefore the Office properly refused to reopen the claim for merit review.

The decision of the Office of Workers' Compensation Programs dated March 29, 2001 is affirmed.

Dated, Washington, DC  
January 3, 2002

David S. Gerson  
Member

Bradley T. Knott  
Alternate Member

Priscilla Anne Schwab  
Alternate Member

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<sup>3</sup> 5 U.S.C. § 8128(a) (providing that "[t]he Secretary of Labor may review an award for or against payment of compensation at any time on his own motion or on application").

<sup>4</sup> 20 C.F.R. § 10.606(b)(2).

<sup>5</sup> 20 C.F.R. § 10.608(b); *see also Norman W. Hanson*, 45 ECAB 430 (1994).