

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARY SINGH and U.S. POSTAL SERVICE,
BEAR CREEK POST OFFICE, Houston, TX

*Docket No. 02-485; Submitted on the Record;
Issued July 9, 2002*

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
WILLIE T.C. THOMAS

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

The Board 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 a 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 a claimant fails to meet one of the above standards, the Office will deny the application for reconsideration without reopening the case for review on the merits.²

On August 4, 1998 appellant, then a 44-year-old letter carrier, filed an occupational disease claim alleging that she sustained an emotional condition, diabetes and hypertension in the performance of duty due to harassment and discrimination from supervisors and co-workers.

By decision dated December 28, 1999, the Office denied appellant's claim for an emotional condition, diabetes and hypertension on the grounds that the evidence of record failed to establish any compensable factors of employment.

By decision dated August 23, 2000, an Office hearing representative affirmed the Office's December 28, 1999 decision.

By letter dated August 12, 2001, appellant requested reconsideration and submitted additional evidence.

¹ 20 C.F.R. § 10.606(b)(2).

² 20 C.F.R. § 10.608(b).

By decision dated September 21, 2001, the Office denied appellant's request for reconsideration on the grounds that the evidence submitted was insufficient to warrant further merit review.

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 January 22, 2002, the only decision properly before the Board is the Office's September 21, 2001 decision denying appellant's request for reconsideration. The Board has no jurisdiction to consider the Office's December 28, 1999 decision denying appellant's claim or the August 23, 2000 decision denying modification of the December 28, 1999 decision.⁴

In support of her August 12, 2001 request for reconsideration, appellant submitted documents relating to her Equal Employment Opportunity Commission (EEOC) complaint against the employing establishment. Appellant's representative stated that she was awaiting a decision by an administrative law judge regarding her EEO claim. He submitted documents showing his attempts to have the employing establishment comply with his discovery requests, his motions for sanctions against the employing establishment, and orders issued by an administrative law judge compelling discovery and imposing sanctions. However, this evidence regarding discovery in an ongoing EEO complaint does not address the issue of whether appellant established the existence of any compensable factors of her employment in her claim for compensation under the Act. Therefore, the evidence does not constitute relevant and pertinent evidence not previously considered by the Office.

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

³ 20 C.F.R. §§ 501.2(c), 501.3(d)(2).

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

The decision of the Office of Workers' Compensation Programs dated September 21, 2001 is affirmed.

Dated, Washington, DC
July 9, 2002

Alec J. Koromilas
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member