

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LONNIE L. MAXIE and U.S. POSTAL SERVICE,
BULK MAIL CENTER, Dallas, TX

*Docket No. 01-2282; Submitted on the Record;
Issued June 24, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, COLLEEN DUFFY KIKO,
DAVID S. GERSON

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

On December 20, 1999 appellant, then a 44-year-old mailhandler, filed a traumatic injury claim alleging that on December 14, 1999 he sustained a broken dental bridge when his hand slipped off a pallet and struck his mouth. He indicated that he continued working because he was not bleeding and his teeth did not feel loose but, when he was eating at home after work, he felt a crunch and noticed his dental bridge had come out.

Appellant submitted copies of a bill for dental services, copies of dental x-rays, a letter dated February 18, 1999 from an employee in a dental office, and a note from an unidentified individual stating that appellant would not be off work for a long period of time.

By decision dated March 20, 2000, the Office denied appellant's claim on the grounds that he failed to submit medical evidence from a physician establishing that his dental condition was causally related to the work incident on December 14, 1999.

By letter dated April 21, 2000, appellant requested reconsideration and submitted additional evidence.

In a letter dated April 19, 2000, Dr. Harry L. Sugg, a dentist, stated that appellant received a complete dental examination and full mouth x-rays on December 16, 1999. He stated that appellant reported being hit in the mouth by a pallet at work which knocked out his bridge on the upper right and also hit him in the front of the mouth. Dr. Sugg stated, "It was the blow to the mouth that [appellant] sustained on December 14, 1999 that may have caused the upper right bridge to loosen causing it to come out. To restore [appellant's] mouth [as] closely to natural as possible, we need to do treatment as diagnosed."

By decision dated May 26, 2000, the Office denied modification of its March 20, 2000 decision on the grounds that the report from Dr. Sugg was speculative and did not describe any injury that was sustained to appellant's mouth.

By letter dated May 25, 2001, appellant again requested reconsideration, quoting from the Office's procedural manual regarding the weighing of medical evidence and rationale in medical reports. He did not explain, however, how this quoted material related to his claim or the Office's May 26, 2000 decision.

By decision dated June 4, 2001, the Office denied appellant's request for reconsideration on the grounds that the evidence submitted in support of his request was not sufficient to warrant further merit review.

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 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 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

By letter dated May 25, 2001, in appellant's request for reconsideration, he quoted portions of the Office's procedural manual regarding the weighing of medical evidence and rationale in medical reports. However, he did not explain how this quoted material from the Office's procedure manual related to his claim or the Office's May 26, 2000 decision. Therefore this evidence does not constitute relevant and pertinent evidence or 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, 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 his request for reconsideration.

¹ 20 C.F.R. § 10.606(b)(2).

² 20 C.F.R. § 10.608(b).

The decision of the Office of Workers' Compensation Programs dated June 4, 2001 is affirmed.

Dated, Washington, DC
June 24, 2002

Michael J. Walsh
Chairman

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member