

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of SHERA L. ARRIOLA and U.S. POSTAL SERVICE,  
POST OFFICE, Austin, TX

*Docket No. 02-370; Submitted on the Record;  
Issued June 20, 2002*

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DECISION and ORDER

Before ALEC J. KOROMILAS, MICHAEL E. GROOM,  
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs acted within its discretion in denying appellant's July 13, 2001 request for reconsideration.

On July 27, 1993 appellant, then a 39-year-old relief postmaster, filed an occupational disease claim asserting that her low back pain, muscle spasm, stiffness and leg pain were the result of carrying and lifting heavy loads at work. The Office accepted her claim for lumbosacral strain and radiculopathy and approved surgical interventions. The Office later accepted her claim for reflex sympathetic dystrophy (RSD).

On September 23, 1999 the Office issued a schedule award for a four percent permanent impairment of the left leg.

Appellant requested reconsideration on May 25, 2000 and argued that her rating did not allow for impairment due to RSD. She submitted medical records through April 24, 2000.

In a decision dated July 25, 2000, the Office reviewed the merits of appellant's claim and denied modification of the schedule award. The Office noted that, while the rating physician did not report appellant's RSD by name, he did record her impairment as it related to this condition when he reported her impairment due to sensory deficits and causalgia. The Office found that appellant provided no independent corroborative factual or medical evidence based on the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4<sup>th</sup> ed. 1995) to support her argument that her RSD was not considered in her impairment rating.

On July 13, 2001 appellant again requested reconsideration and indicated that she was submitting up-to-date medical records through June 18, 2001. Appellant again took issue with the rating she received from the rating physician. She discussed the nature of RSD at length and how the condition had changed her life. Appellant requested that the Office inquire the reason that the rating physician did not list RSD in his report. She added that she also suffered from a thyroid disease and thyroid cyst, which was not considered part of her disability.

In a decision dated August 29, 2001, the Office denied appellant's July 13, 2001 request for reconsideration on the grounds that her letter neither raised substantive legal questions nor included new and relevant evidence.

An appeal to the Board must be mailed no later than one year from the date of the Office's final decision.<sup>1</sup> Because appellant mailed her November 28, 2001 appeal more than one year after the Office's July 25, 2000 decision denying modification of the schedule award, the Board has no jurisdiction to review that decision or earlier decisions on the merits of appellant's claim, including the September 23, 1999 schedule award. The only decision the Board may review is the Office's August 29, 2001 decision denying appellant's July 13, 2001 request for reconsideration. Therefore, the only issue before the Board is whether the Office acted within its discretion in denying that request.

The Board finds that the Office acted within its discretion in denying appellant's July 13, 2001 request for reconsideration.

The Federal Employees' Compensation Act provides that the Office may review an award for or against compensation upon application by an employee (or his or her representative) who receives an adverse decision. The employee shall exercise this right through a request to the district Office. The request, along with the supporting statements and evidence, is called the "application for reconsideration."<sup>2</sup>

An employee (or representative) seeking reconsideration should send the application for reconsideration to the address as instructed by the Office in the final decision. The application for reconsideration, including all supporting documents, must be in writing and must set forth arguments and contain evidence that either: (1) shows that the Office erroneously applied or interpreted a specific point of law; (2) advances a relevant legal argument not previously considered by the Office; or (3) constitutes relevant and pertinent new evidence not previously considered by the Office.<sup>3</sup>

A timely request for reconsideration may be granted if the Office determines that the employee has presented evidence and/or argument that meets at least one of these standards. If reconsideration is granted, the case is reopened and the case is reviewed on its merits. Where the request is timely but fails to meet at least one of these standards, the Office will deny the application for reconsideration without reopening the case for a review on the merits.<sup>4</sup>

Appellant's July 13, 2001 request for reconsideration fails to meet the standards for obtaining a merit review of her claim. This request is repetitive of her May 25, 2000 request for reconsideration, which the Office fully addressed in its July 25, 2000 decision denying modification. Appellant merely repeated her argument, with some elaboration, concerning RSD

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<sup>1</sup> 20 C.F.R. § 501.3(d) (time for filing); *see id.* § 501.10(d)(2) (computation of time).

<sup>2</sup> 20 C.F.R. § 10.605 (1999).

<sup>3</sup> *Id.* at § 10.606.

<sup>4</sup> *Id.* at § 10.608.

and her impairment rating. Evidence that repeats or duplicates evidence already in the record has no evidentiary value and constitutes no basis for reopening a case.<sup>5</sup>

Appellant also argued that she suffers from a thyroid disease and thyroid cyst, which was not considered part of her disability. The argument is irrelevant because there is no indication that the Office ever accepted a thyroid condition to be causally related to appellant's federal employment or that such a condition has caused impairment to appellant's left leg.

Appellant indicated that she was submitting up-to-date medical records through June 18, 2001. The Board has reviewed the medical evidence submitted since the Office's July 25, 2000 merit decision and can find none that addresses the permanent impairment of appellant's left leg under the A.M.A., *Guides*. As such, the medical evidence is not relevant to appellant's schedule award. Evidence that does not address the particular issue involved constitutes no basis for reopening a case.<sup>6</sup>

Because appellant's July 13, 2001 request for reconsideration does not meet at least one of the standards for obtaining a merit review of her case, the Office acted within its discretion in denying that request.

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

Dated, Washington, DC  
June 20, 2002

Alec J. Koromilas  
Member

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>5</sup> *Eugene F. Butler*, 36 ECAB 393 (1984); *Bruce E. Martin*, 35 ECAB 1090 (1984).

<sup>6</sup> *Jimmy O. Gilmore*, 37 ECAB 257 (1985); *Edward Matthew Diekemper*, 31 ECAB 224 (1979).