

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of RICHARD J. STEYART and U.S. POSTAL SERVICE,  
POST OFFICE, Sonoma, CA

*Docket No. 01-312; Submitted on the Record;  
Issued March 15, 2002*

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DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,  
WILLIE T.C. THOMAS

The issue is whether the Office of Workers' Compensation Programs properly determined that appellant's request for reconsideration was insufficient to warrant merit review of the claim.

Appellant filed a claim on April 3, 1998, alleging that emotional stress at work caused a heart attack on March 21, 1998. By decision dated October 8, 1998, the Office denied the claim. The Office indicated that appellant had not substantiated a compensable work factor as contributing to his injury. By decision dated July 22, 1999, an Office hearing representative affirmed the prior decision.

In a decision dated July 24, 2000, the Office determined that appellant's July 14, 2000 request for reconsideration was insufficient to warrant merit review of the claim.

The Board finds that the Office properly denied appellant's request for reconsideration.

With respect to the Board's jurisdiction to review final decisions of the Office, 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>1</sup> As appellant filed his appeal on October 19, 2000, the only decision over which the Board has jurisdiction on this appeal is the July 24, 2000 decision denying his request for reconsideration.

To require the Office to reopen a case for merit review under section 8128(a) of the Federal Employees' Compensation Act,<sup>2</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

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<sup>1</sup> See 20 C.F.R. § 501.3(d).

<sup>2</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").

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>3</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>4</sup>

In this case, appellant submitted a July 2, 2000 report from Dr. Thomas Long, an emergency department physician, who reviewed medical and factual evidence and opined that appellant's cardiovascular disease and subsequent heart attack were causally related to his recent employment history.

Appellant had alleged that emotional stress at work had contributed to heart disease and a myocardial infarction on March 21, 1998. The initial burden that he must meet is to allege and substantiate compensable work factors; if he does so, then there must be probative medical evidence on causal relationship between compensable work factors and a diagnosed medical condition.<sup>5</sup> If appellant does not substantiate compensable work factors, then it is unnecessary to address the medical evidence.<sup>6</sup> The claim in this case was denied on the grounds that appellant had not established a compensable work factor with respect to alleged harassment or administrative error or abuse.

The submission of medical evidence on causal relationship is not relevant to the issue that formed the basis for the denial of the claim by the Office. It is therefore not sufficient to warrant reopening the claim for merit review under 5 U.S.C. § 8128(a).<sup>7</sup> Appellant did not submit any new and relevant evidence with respect to substantiating a compensable work factor. He did not show that the Office erroneously applied or interpreted a specific point of law, or advance a relevant legal argument not previously considered by the Office. The Board finds that appellant did not meet any of the requirements of section 10.606(b)(2) and therefore the Office properly denied his request for reconsideration without merit review of the claim.

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<sup>3</sup> 20 C.F.R. § 10.606(b)(2).

<sup>4</sup> 20 C.F.R. § 10.608(b); *see also Norman W. Hanson*, 45 ECAB 430 (1994).

<sup>5</sup> *See Norma L. Blank*, 43 ECAB 384, 389-90 (1992).

<sup>6</sup> *Margaret S. Krzycki*, 43 ECAB 496 (1992).

<sup>7</sup> *Mary L. Brooks*, 46 ECAB 266 (1994) (the submission of new medical evidence was not sufficient to warrant reopening the claim for merit review where the claimant had not attributed her emotional condition to a compensable work factor).

The decision of the Office of Workers' Compensation Programs dated July 24, 2000 is affirmed.

Dated, Washington, DC  
March 15, 2002

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member