

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CHARLES D. SPIVEY and DEPARTMENT OF AGRICULTURE,
FOREST SERVICE, OSCEOLA NATIONAL FOREST, Oulstee, FL

*Docket No. 01-1432; Submitted on the Record;
Issued March 4, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

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

On August 14, 1997 appellant, then a 48-year-old forestry technician, filed a claim for high blood pressure which he related to stress at work. Appellant contended that his supervisor verbally abused him in front of coworkers, did not provide him with the training necessary to perform his duties, denied leave or restricted his ability to use or accumulate leave and informed him that he would not be qualified for a position that was available at the employing establishment. Appellant filed a claim for aggravation of Type II diabetes on March 23, 1998 due to the same allegations of stress. On April 29, 1998 appellant filed a claim for impotence which he related to medication he was taking for hypertension and diabetes caused by stress at work.

The Office accepted that appellant had established two incidents that constituted compensable factors of employment: that on January 16, 1997, his supervisor verbally abused him in front of coworkers, and that the supervisor told a coworker that appellant was lazy and would not become banding certified because he was not smart enough and did not have a college degree.

In an April 1, 1998 decision, the Office denied appellant's claim for hypertension on the grounds that he had not established that he sustained an injury in the performance of duty. In a February 5, 1999 decision, the Office vacated its April 1, 1998 decision and accepted appellant's claim for temporary aggravation of hypertension and temporary aggravation of diabetes. The Office subsequently accepted appellant's claim for temporary aggravation of erectile dysfunction.

In an April 12, 2000 decision, the Office found that the medical evidence of record established that the employment-related temporary aggravation of appellant's hypertension,

diabetes, and erectile dysfunction conditions had resolved and that he was not entitled to any further medical benefits or compensation under the Federal Employees' Compensation Act.

In a February 9, 2001 letter, appellant's representative requested reconsideration. In an April 6, 2001 decision, the Office denied appellant's request for reconsideration on the grounds that the evidence submitted in support of the request was irrelevant and immaterial and therefore insufficient to warrant review of the April 12, 2000 decision.

The jurisdiction of the Board is limited to final decisions of the Office issued within one year prior to the filing of an appeal with the Board.¹ As appellant's appeal was filed on May 1, 2001, the Board has jurisdiction to consider only the April 6, 2001 decision of the Office.

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

Section 8128(a) of the Act vests the Office with discretionary authority to determine whether it will review an award for or against compensation, either under its own authority or on application by a claimant. Under 20 C.F.R. § 10.606(b), a claimant may obtain review of the merits of his claim by showing that the Office erroneously applied or interpreted a point of law, advanced a point of law not previously considered by the Office, or submitted relevant and pertinent evidence not previously considered by the Office. Section 10.608(b) provides that when an application for review of the merits of a claim does not meet at least one of these three requirements, the Office will deny the application for review without reviewing the merits of the claim.² Evidence that repeats or duplicates evidence already in the case record has no evidentiary value and does not constitute a basis for reopening a case.³ Evidence that does not address the particular issue involved also does not constitute a basis for reopening a case.⁴

The only evidence appellant submitted in support of his request for reconsideration was a February 7, 2001 report from Dr. Elizabeth Babcock, an internist, who stated that appellant could not perform any of his job duties and would not recover from his medical conditions. She stated that appellant could only perform jobs that did not require exertion, which meant any job that caused chest pain and myocardial ischemia. She suggested that appellant could perform a desk job with no lifting. While Dr. Babcock stated that appellant was unable to work, she gave no opinion on whether appellant's condition or disability for work was related to his employment in any way. Her report, therefore, was irrelevant to the issue of whether appellant's condition was caused or continued to be aggravated by compensable factors of his employment. The Office therefore properly denied appellant's request for reconsideration as he did not submit evidence that addressed the issue in his case.

¹ 20 C.F.R. § 501.2(c).

² 20 C.F.R. § 10.608(b).

³ *Eugene F. Butler*, 36 ECAB 393, 398 (1984); *Bruce E. Martin*, 35 ECAB 1090, 1093-94 (1984).

⁴ *Edward Matthew Diekemper*, 31 ECAB 224, 225 (1979).

The decision of the Office of Workers' Compensation Programs, dated April 6, 2001, is hereby affirmed.

Dated, Washington, DC
March 4, 2002

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member