

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DONALD S. HERMAN and DEPARTMENT OF THE NAVY,
NAVAL MEDICAL CENTER, San Diego, CA

*Docket No. 01-1639; Submitted on the Record;
Issued May 8, 2002*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

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

On February 5, 1996 appellant, then a 32-year-old supervisory recreation specialist, filed a claim for an emotional condition occurring on September 18, 1995.

By decision dated October 24, 1996, the Office denied appellant's claim on the grounds that he had failed to establish that his emotional condition was causally related to compensable factors of employment.

By letter dated November 21, 1996, appellant requested an oral hearing which was held September 16, 1997.

By decision dated December 16, 1997 and finalized December 17, 1997, the Office hearing representative affirmed the Office's October 24, 1996 decision.

By decisions dated October 6, 1999 and March 20, 2000, the Office denied modification of its October 24, 1996 decision.

By letter dated March 4, 2001, appellant requested reconsideration and submitted additional evidence.¹

In a handwritten note dated September 18, 1995, a doctor whose signature is illegible, stated that appellant was seen on that date for anxiety with a history suggesting depression secondary to work stress.

Appellant also submitted copies of medical bills and prescription receipts.

¹ Appellant also submitted evidence previously of record.

By decision dated April 11, 2001, the Office denied appellant's request for reconsideration on the grounds that the evidence submitted in support of the request was repetitious and irrelevant and not sufficient to warrant modification of its prior decision.

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

The Board's jurisdiction to consider and decide appeals from final decisions of the Office of Workers' Compensation Programs extends only to those final decisions issued within one year prior to the filing of the appeal.² As appellant filed his appeal with the Board on June 6, 2001, the only decision properly before the Board is the Office's April 1, 2001 decision denying appellant's request for reconsideration. The Board has no jurisdiction to consider the Office's October 24, 1996 decision denying appellant's claim for an emotional condition or the March 20, 2000 or October 6, 1999 decisions denying modification of the October 24, 1996 decision.³

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.⁴ When an application for review of the merits of a claim does not meet at least one of these requirements, the Office will deny the application for review without reviewing the merits of the claim.⁵

In this case, appellant submitted a note from a physician and copies of medical bills and prescription receipts. However, unless appellant alleges a compensable factor of employment substantiated by the record, it is unnecessary for the Office to address the medical evidence.⁶ The Office denied appellant's claim in its October 24, 1996 decision and subsequent decisions because he failed to establish that his emotional condition was causally related to compensable factors of employment. Therefore, the medical evidence submitted by appellant in support of his request for reconsideration does not constitute relevant and pertinent evidence not previously considered by the Office. Appellant also submitted copies of evidence previously of record. As the Office previously reviewed this evidence, it 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, did not advance a relevant legal argument not previously considered by the Office and did not submit relevant and pertinent evidence not previously considered by the Office, the Office properly denied his request for reconsideration.

² 20 C.F.R. §§ 501.2(c); 501.3(d)(2).

³ See *Leon D. Faidley, Jr.*, 41 ECAB 104, 108-109 (1989).

⁴ 20 C.F.R. § 10.606(b)(2).

⁵ 20 C.F.R. § 10.608(b).

⁶ See *Garry M. Carlo*, 47 ECAB 299, 305 (1996).

The decision of the Office of Workers' Compensation Programs dated April 1, 2001 is affirmed.

Dated, Washington, DC
May 8, 2002

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member