

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GABRIELLE E. ARIZMENDI and DEPARTMENT OF VETERANS AFFAIRS, VETERANS ADMINISTRATION MEDICAL CENTER, Philadelphia, PA

*Docket No. 02-1523; Submitted on the Record;
Issued November 25, 2002*

DECISION and ORDER

Before ALEC J. KOROMILAS, COLLEEN DUFFY KIKO,
DAVID S. GERSON

The issue is whether the Office of Workers' Compensation Programs acted within its discretion in denying appellant's February 21, 2002 request for reconsideration.

This case has previously been before the Board. In an April 17, 2001 decision, Docket No. 00-1244, the Board affirmed a December 15, 1999 decision of the Office, which found that appellant's request for reconsideration was untimely and that the evidence submitted did not establish clear evidence of error.¹

In a letter dated February 21, 2002, appellant requested reconsideration of the Office's July 15, 1995 decision denying her claim for an emotional condition. By decision dated March 19, 2002, the Office denied appellant's February 21, 2002 request for reconsideration on the grounds that her letter neither raised substantive legal questions nor included new and relevant evidence.

In a letter dated April 12, 2002, appellant requested consideration of her entire case for compensation. She submitted a copy of the Office's March 19, 2002 decision and expressed her disagreement with the Board's April 17, 2001 decision. The Board assigned Docket No. 02-1523.

By motion dated August 8, 2002, the Office argued that the appeal docketed herein should be dismissed due to lack of jurisdiction. The Office argued that, as there was no Office decision or Board decision issued within one year of the date of appellant's April 12, 2002 submission to the Board, the Board has no jurisdiction over the matter. In the alternative, the Office argued that assuming the April 12, 2002 submission by appellant to the Board were to be considered a petition for reconsideration of the Board's April 17, 2001 decision, it too was untimely filed and should also be dismissed for lack of jurisdiction.

¹ Docket No. 00-1244 (issued April 17, 2001).

By decision dated September 24, 2002, the Board issued an order denying the Office's motion to dismiss the appeal in Docket No. 02-1523 because there had been an Office decision issued on March 19, 2002. The Board granted the Office's motion to dismiss as a petition for reconsideration appellant's submission to the Board in Docket No. 00-1244. Therefore, the only issue before the Board is whether the Office by its decision of March 19, 2002, properly denied appellant's February 21, 2002 request for review on the merits of its July 15, 1995 decision denying her claim for an emotional condition.

The Board finds that the Office properly denied appellant's February 21, 2002 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."²

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.³

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.⁴

Appellant's February 21, 2002 request for reconsideration fails to meet the standards for obtaining a merit review of her claim. This request is repetitive of her contentions, which the

² 20 C.F.R. § 10.605 (1999).

³ *Id.* at § 10.606.

⁴ *Id.* at § 10.608.

Board had previously considered and addressed in its April 17, 2001 decision, in Docket No. 00-1244, wherein the Board affirmed a December 15, 1999 decision of the Office.⁵ Evidence that repeats or duplicates evidence already in the record has no evidentiary value and constitutes no basis for reopening a case.⁶

Because appellant's February 21, 2002 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 March 19, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
November 25, 2002

Alec J. Koromilas
Member

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

⁵ Docket No. 00-1244 (issued April 17, 2001). By decision dated September 24, 2002, the Board granted the Director's motion to dismiss the petition for reconsideration in Docket No. 00-1244 as it was untimely filed. Docket Nos. 02-1523 & 00-1244 (issued September 24, 2002).

⁶ *Eugene F. Butler*, 36 ECAB 393 (1984); *Bruce E. Martin*, 35 ECAB 1090 (1984).