

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DIEDRA A. SPENCER and U.S. POSTAL SERVICE,
COLUMBUS ANNEX, Columbus, GA

*Docket No. 02-991; Submitted on the Record;
Issued October 2, 2002*

DECISION and ORDER

Before ALEC J. KOROMILAS, COLLEEN DUFFY KIKO,
WILLIE T.C. THOMAS

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

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

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.¹ When a claimant fails to meet one of the above standards, the Office will deny the application for reconsideration without reopening the case for review on the merits.²

On July 8, 1999 appellant, then a 44-year-old letter carrier, filed an occupational disease claim alleging that she sustained an emotional condition in the performance of duty due to work stress caused by several employment incidents.

By decision dated February 14, 2000, the Office denied appellant's claim on the grounds that she had failed to establish that her emotional condition was causally related to any compensable factors of employment.

By letter dated December 4, 2000, appellant requested reconsideration and submitted additional evidence.

¹ 20 C.F.R. § 10.606(b)(2).

² 20 C.F.R. § 10.608(b).

By decision dated May 4, 2001, the Office denied appellant's request for reconsideration on the grounds that she had failed to submit relevant and pertinent evidence not previously considered by the Office.

The Board's jurisdiction to consider and decide appeals from final decisions of the Office extends only to those final decisions issued within one year prior to the filing of the appeal.³ As appellant filed her appeal with the Board on March 1, 2002, the only decision properly before the Board is the Office's May 4, 2001 decision denying appellant's request for reconsideration. The Board has no jurisdiction to consider the Office's February 14, 2000 merit decision denying appellant's claim.⁴

In support of her request for reconsideration, appellant submitted a statement in which she described allegations previously alleged as well as new allegations. Her personal statement does not constitute new and relevant evidence because it describes her allegations but does not establish that the alleged employment incidents actually occurred. In its February 14, 2000 decision, the Office found that appellant had failed to provide supporting evidence to establish that the alleged employment incidents had occurred.

In an unsigned, undated statement, coworker "Willie" indicated that appellant's supervisor constantly harassed her by comparing the time it took substitute carriers to deliver appellant's route to her time. This statement does not constitute relevant and pertinent evidence not previously considered by the Office because it is unsigned, contains only the witness's first name and does not mention any specific details of the alleged harassment such as dates and specifically what was said on the occasions of harassment.

In a statement dated December 6, 2000, coworker Carol Bailer stated that appellant told her about her work stress. She stated that when appellant returned to work after being on leave for a year, she and her supervisor were "at odds" and he would not provide assistance when appellant requested it. However, she provided no specific details of the alleged incidents. Therefore, this evidence does not constitute relevant and pertinent evidence not previously considered by the Office.

In a statement dated December 7, 2000, coworker David Mahaffey stated that he witnessed appellant's harassment by her supervisor but he provided no specific details. Therefore, this evidence does not constitute relevant and pertinent evidence not previously considered by the Office.

Appellant submitted a report from her family practitioner and a licensed clinical social worker. However, unless appellant alleges a compensable factor of employment substantiated by

³ 20 C.F.R. §§ 501.2(c), 501.3(d)(2).

⁴ See *Leon D. Faidley, Jr.*, 41 ECAB 104, 108-09 (1989).

the record, it is unnecessary to address the medical evidence.⁵ Furthermore, a lay individual such as a social worker would not be competent to render a medical opinion.⁶

As appellant failed to show that the Office erroneously applied or interpreted a specific point of law, advance a relevant legal argument not previously considered by the Office or submit relevant and pertinent evidence not previously considered by the Office, the Office properly denied her request for reconsideration.

The decision of the Office of Workers' Compensation Programs dated May 4, 2001 is affirmed.

Dated, Washington, DC
October 2, 2002

Alec J. Koromilas
Member

Colleen Duffy Kiko
Member

Willie T.C. Thomas
Alternate Member

⁵ See *Garry M. Carlo*, 47 ECAB 299, 305 (1996).

⁶ See *Robert J. Krstyen*, 44 ECAB 227, 229 (1992).