

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of RAYLENE CELAYA and U.S. POSTAL SERVICE,  
POST OFFICE, Tucson, AZ

*Docket No. 02-349; Submitted on the Record;  
Issued February 26, 2003*

---

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,  
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs abused its discretion by refusing to reopen appellant's claim for further review on the merits under 5 U.S.C. § 8128(a).

On January 13, 1995 appellant, a 39-year-old letter carrier, injured her left arm, left shoulder and neck in the performance of duty. She filed a claim for benefits on January 14, 1995, which the Office accepted for cervical herniated nucleus pulposus and left shoulder impingement syndrome.

On July 17, 1996 appellant filed a CA-7 claim for a schedule award based on the partial loss of use of her left upper extremity, stemming from her accepted 1995 employment injury.

By decision dated June 13, 1997, the Office granted appellant a schedule award for a 16 percent permanent impairment of the left upper extremity for the period from January 4 to December 19, 1997 for a total of 46.08 weeks of compensation.

By letter dated June 9, 1998, appellant requested reconsideration of the June 13, 1997 Office decision.

In decisions dated October 30 and November 6, 1998, the Office granted appellant a schedule award for an additional 18 percent permanent impairment of the left upper extremity, covering the period from December 20, 1997 to January 17, 1999 for a total of 56.16 weeks of additional compensation.

By letter dated October 25, 1999, appellant requested reconsideration of the October 30, 1998 Office decision.

By decision dated March 31, 2000, the Office denied reconsideration.

By letter dated March 27, 2001, appellant requested reconsideration of the March 31, 2000 Office decision. She submitted a December 4, 2000 report from Dr. Susan B. Fleming, a Board-certified surgeon and appellant's treating physician, and a February 28, 2001 report from a physical therapist. In her report, Dr. Fleming noted mild swelling of the left arm, diagnosed reflex sympathetic dystrophy and chronic regional pain syndrome, recommended that she limit the use of her left arm and left hand, and restricted her from performing any activity requiring over-the-shoulder reaching.

By decision dated August 30, 2001, the Office denied appellant's application for review on the grounds that it neither raised substantive legal questions nor included new and relevant evidence sufficient to require the Office to review its prior decision.

The Board finds that the Office did not abuse its discretion by refusing to reopen appellant's case for further review on the merits of her claim under 5 U.S.C. § 8128(a).

Under 20 C.F.R. § 10.607, a claimant may obtain review of the merits of his or her claim by showing that the Office erroneously applied or interpreted a specific point of law; by advancing a relevant legal argument not previously considered by the Office; or by submitting relevant and pertinent evidence not previously considered by the Office.<sup>1</sup> 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.<sup>2</sup>

In this case, appellant has not shown that the Office erroneously applied or interpreted a specific point of law; she has not advanced a relevant legal argument not previously considered by the Office and she has not submitted relevant and pertinent evidence not previously considered by the Office. The evidence appellant submitted was either previously considered and rejected by the Office in prior decisions, or is not pertinent to the issue on appeal. Dr. Fleming's report is cumulative and repetitive of her previous reports, which are not pertinent because they represent one side of a conflict in the medical evidence which was resolved by a referee medical report. Additionally, appellant's letter failed to show that the Office erroneously applied or interpreted a point of law nor did it advance a point of law or fact not previously considered by the Office. Therefore, the Office acted within its discretion in refusing to reopen appellant's claim for a review on the merits.

---

<sup>1</sup> 20 C.F.R. § 10.607(b) (1). *See generally* 5 U.S.C. § 8128(a).

<sup>2</sup> *Howard A. Williams*, 45 ECAB 853 (1994).

The decision of the Office of Workers' Compensation Programs dated August 30, 2001 is hereby affirmed.

Dated, Washington, DC  
February 26, 2003

Alec J. Koromilas  
Chairman

David S. Gerson  
Alternate Member

A. Peter Kanjorski  
Alternate Member