

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PATRICIA A. O'CONNELL and U.S. POSTAL SERVICE,
POST OFFICE, Kapalama, HI

*Docket No. 03-736; Submitted on the Record;
Issued July 8, 2003*

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 determined that appellant's request for reconsideration was insufficient to warrant merit review of the claim.

On September 19, 2000 appellant, then a 41-year-old letter carrier, filed a notice of traumatic injury and claim for continuation of pay/compensation, alleging that she sustained an emotional condition as a result of a September 18, 2000 employment incident. Appellant alleged that she had an emotional reaction to her supervisor's decision to reduce appellant's hours due to her work restrictions.

By decision dated January 31, 2001, the Office denied the claim. The Office determined that appellant had not substantiated a compensable work factor as contributing to a diagnosed emotional condition. In a decision dated September 26, 2001, an Office hearing representative affirmed the January 3, 2001 decision.

In a letter dated September 6, 2002, appellant requested reconsideration of her claim. Appellant indicated that she had a work-related back injury, resulting in continuing disability for her letter carrier duties and she had not recovered from that injury. Appellant also stated that her nervous breakdown on September 19, 2000 could have been avoided if only the Office had not denied her claim. She did not submit any additional evidence.

By decision dated November 6, 2002, the Office determined that appellant's request for reconsideration was insufficient to warrant merit review of the claim.

The Board finds that the Office properly denied appellant's request for reconsideration without merit review of the claim.

With respect to the Board's jurisdiction to review final decisions of the Office, it is well established that an appeal must be filed no later than one year from the date of the Office's final

decision.¹ As appellant filed her appeal on January 27, 2003, the only decision over which the Board has jurisdiction on this appeal is the November 6, 2002 decision denying her 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

In this case, appellant's November 6, 2002 reconsideration request does not meet any of the above standards. Appellant noted a prior claim for a back injury and stated that she had not recovered from that injury. The claim in this case, however, was that appellant sustained an emotional condition due to an administrative action of the employing establishment. The September 26, 2001 Office decision found that appellant had not established any compensable work factors and, therefore, did not meet her burden of proof. On reconsideration, appellant did not submit any new and relevant evidence with respect to the establishment of a compensable work factor. She did not show that the Office erroneously applied or interpreted a specific point of law, or advance a new and relevant legal argument. Accordingly, the Board finds that appellant did not meet any of the standards of section 10.606(b)(2), and the Office properly denied the request for reconsideration with merit review of the claim.

¹ See 20 C.F.R. § 501.3(d).

² 20 C.F.R. § 10.605 (1999).

³ *Id.* at § 10.606.

⁴ *Id.* at § 10.608.

The decision of the Office of Workers' Compensation Programs dated November 6, 2002 is affirmed.

Dated, Washington, DC
July 8, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member