

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WILLIAM A. AMERSON and U.S. POSTAL SERVICE,
POST OFFICE, Birmingham, AL

*Docket No. 03-393; Submitted on the Record;
Issued June 18, 2003*

DECISION and ORDER

Before ALEC J. KOROMILAS, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs properly refused to reopen appellant's claim for further review of the merits.

On June 8, 2000 appellant, then a 39-year-old mailhandler, filed a claim for occupational disease, alleging that his carpal tunnel syndrome was caused by his employment and that he was first aware of his condition in 1999. The employing establishment stated that appellant first reported his condition to his supervisor on that date and that he did not work from June 2 to 8, 2000.

By letter dated August 22, 2000, the Office advised appellant that the information he had submitted was insufficient to establish that he sustained an injury as alleged. The Office requested that appellant describe the employment-related activities, which he believed contributed to his condition and that he submit a medical report from his treating physician, which describes symptoms, results of examinations and tests, treatment and diagnosis and the physician's opinion if he believes that appellant's condition was caused by his employment. In response, appellant submitted medical evidence and a personal statement.

By decision dated November 9, 2000, the Office denied appellant's claim on the grounds that the medical evidence did not establish that his carpal tunnel syndrome was causally related to employment factors. By letter dated December 9, 2000, appellant requested an oral hearing. Subsequent to the hearing, appellant submitted additional medical evidence. A hearing was held on May 30, 2001. By decision dated August 2, 2001 and finalized on August 3, 2001, the Office hearing representative affirmed the November 9, 2000 decision.

By letter dated August 1, 2002, appellant requested reconsideration and submitted additional medical evidence. By decision dated August 15, 2002, the Office denied appellant's reconsideration request on the grounds that the evidence was irrelevant and repetitious in nature and thus was insufficient to require the Office to reopen its August 3, 2001 decision.

The Board finds that the Office did not abuse its discretion in refusing to reopen appellant's claim for further review of the merits.

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.¹ As appellant filed his appeal with the Board on November 20, 2002, the Board lacks jurisdiction to review the Office's most recent merit decision dated August 2, 2001. Consequently, the only decision properly before the Board is the Office's August 15, 2002 decision denying review of its August 3, 2001 decision.

Section 10.608(a) of the Code of Federal Regulations provides that 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 the standards described in section 10.606(b)(2).² This section provides that the application for reconsideration must be submitted in writing and set forth arguments and contain evidence that either: (i) shows that the Office erroneously applied or interpreted a specific point of law; or (ii) advances a relevant legal argument not previously considered by the Office; or (iii) constitutes relevant and pertinent new evidence not previously considered by the Office.³ Section 10.608(b) provides that when a request for reconsideration is timely but fails to meet at least one of these three requirements, the Office will deny the application for reconsideration without reopening the case for a review on the merits.⁴

The Board finds that appellant's arguments and the evidence submitted in this case are duplicative and repetitive of evidence previously submitted and, thus, do not constitute a basis for reopening the case. With his August 1, 2002 request for reconsideration, appellant submitted a March 30, 2000 unsigned report regarding his sleep apnea and an accident report dated August 25, 2000. Neither of these reports are relevant to the issue of appellant's claim of work-related carpal tunnel syndrome. Appellant also submitted an article about carpal tunnel syndrome. The Board has held that newspaper clippings, medical texts and excerpts from publications are of no evidentiary value in establishing the causal relationship between a claimed condition and a claimant's federal employment as such materials are of general application and are not determinative of whether the specific condition claimed is related to particular employment factors or incidents. The article is, therefore, irrelevant to the issue in the instant case.⁵ Appellant also submitted medical evidence consisting of a November 9, 2001 report from Dr. Troy Anderson, which documents a nerve conduction study performed on that date. Appellant also submitted a July 29, 2002 report, which Dr. Francis M. Connery reported that appellant felt that Dr. Anderson's report was sufficient to establish a causal relationship between his carpal tunnel syndrome and work. Dr. Connery, however, did not provide an opinion in this

¹ 20 C.F.R. § 10.607(a) (1999).

² 20 C.F.R. § 10.608(a) (1999).

³ 20 C.F.R. § 10.608(b)(1) and (2) (1999).

⁴ 20 C.F.R. § 10.608(b) (1999).

⁵ *Gloria J. McPherson*, 51 ECAB 441 (2000).

regard. Thus, neither of these reports provide an opinion that appellant's carpal tunnel syndrome is work related. Therefore, as appellant did not meet any of the requirements under section 10.606(b)(2), the Office properly denied the request for reconsideration without merit review of the claim.

The August 15, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
June 18, 2003

Alec J. Koromilas
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member