

**United States Department of Labor
Employees' Compensation Appeals Board**

LINDA K. NICKLE, Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Catlin, IL, Employer**

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**Docket No. 04-1021
Issued: July 26, 2004**

Appearances:
Linda K. Nickle, pro se
Office of the Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Member
DAVID S. GERSON, Alternate Member
WILLIE T.C. THOMAS, Alternate Member

JURISDICTION

On March 8, 2004 appellant filed a timely appeal from a nonmerit Office of Workers' Compensation Programs' decision dated December 23, 2003. Because more than one year has elapsed between the Office's last merit decision dated May 13, 2002 and the filing of this appeal on March 8, 2004 the Board lacks jurisdiction to review the merits of appellant's claim pursuant to 20 C.F.R §§ 501(c)(2) and 501.3(d)(2).

ISSUE

The issue is whether the Office properly refused to reopen appellant's case for further review on the merits of her claim under 5 U.S.C. § 8128(a).

FACTUAL HISTORY

This is the fourth time this case has been before the Board. In a decision dated October 13, 1999,¹ the Board affirmed Office decisions dated November 20 and June 25, 1997

¹ Docket No. 98-820 (issued October 13, 1999).

which had denied appellant's claim for continuation of pay; and a request for review of the written record. In a decision dated November 16, 2001,² the Board affirmed the Office's August 9, 1999 decision, finding that appellant failed to establish that she had any employment-related disability after July 7, 1999. Finally, in a decision dated September 16, 2003,³ the Board affirmed the Office's May 13, 2002 decision, finding that appellant failed to establish that she sustained any employment-related disability after July 7, 1999. The Board also found that the Office properly denied appellant's request for an oral hearing. Appellant thereafter filed a petition for reconsideration before the Board. The Board denied the petition on October 29, 2003. The complete facts of this case are set forth in the Board's October 13, 1999, November 16, 2001 and September 16, 2003 decisions and are herein incorporated by reference.

By letter dated September 25, 2003, appellant requested reconsideration of the Office's May 13, 2002 decision which denied appellant's claim for employment-related disability after July 7, 1999. Appellant did not submit any additional medical evidence. Appellant alleged that she had established "cause and effect" between her medical condition and her federal employment and that she would have liked to have returned to her federal employment after July 1999.

By decision dated December 23, 2003, 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.

LEGAL PRECEDENT

Under 20 C.F.R. § 10.606(b), 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.⁴ 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.⁵

ANALYSIS

In the present 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. Appellant contended in her request letter that she sustained symptoms of disabling pain in her back subsequent to July 7, 1999, but she did not submit any medical opinion evidence which addressed the relevant issue of whether she sustained any employment-related disability after July 7, 1999. Thus, her request did not contain any new and

² Docket No. 00-560 (issued November 16, 2001).

³ Docket No. 03-391 (issued September 16, 2003).

⁴ 20 C.F.R. § 10.606(b)(1); *see generally* 5 U.S.C. § 8128(a).

⁵ *Howard A. Williams*, 45 ECAB 853 (1994).

relevant evidence for the Office to review regarding the issue at hand: disability after July 7, 1999. While appellant also repeated her allegation that she was not allowed to return to work after July 7, 1999, this is an argument appellant presented previously to the Office and the Board. Appellant submitted no new evidence in support of this argument, which would establish an entitlement to disability benefits. Therefore, the Office did not abuse its discretion in refusing to reopen appellant's claim for a review on the merits.

CONCLUSION

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 his claim under 5 U.S.C. § 8128(a).

ORDER

IT IS HEREBY ORDERED THAT the December 23, 2003 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: July 26, 2004
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member