

statement, appellant alleged that his emotional condition was caused or aggravated by his employment on June 8, 2003 due to his relay assignments and feeling of being overworked. Appellant stated that he began performing two sets of relays, not the usual set associated with the one “combo” driver, for the past seven years without incident or complaint, although he originally had bid for one set of relays. He believed that this workload of two relay sets spanning over the years contributed to his mental and physical breakdown. Appellant was hoping to have the opportunity to work on his original bid assignment of relay. He also noted family matters that needed his immediate attention and assistance. Appellant submitted copies of disability notes and reports as well as a document entitled “Current Relays and Drops for USPS employee -- Vincent Dell’Armo,” which noted a total of 57 points of delivery (relays and drops) for one typical workday. The employing establishment controverted the claim on the basis that there was no medical documentation which explained how appellant’s condition was work related.

By decision dated May 10, 2004, the Office denied appellant’s claim. The Office found that appellant failed to provide factual evidence that included a description of the specific factors, practices or events which he believed caused him to be “overworked and overwhelmed.” It further found that the medical evidence failed to contain a rationalized medical opinion which explained how his condition was related to his federal employment.

In a September 28, 2004 letter, appellant requested reconsideration. He stated that he had compiled a list of his most current daily relay and drop points. Appellant indicated that a copy of this list was also provided to his physician so that his workload and its contribution to his medical condition could be understood. He submitted copies of his September 4, 2003 statement and a copy of the document entitled “Current Relays and Drops for USPS employee -- Vincent Dell’Armo.” In a July 21, 2004 report, Dr. Rehana Latif, a psychiatrist, noted that appellant reported a lack of support and tremendous work stress exceeding standard work description which caused physical and emotional turmoil. Dr. Latif diagnosed major depression and panic attack with agoraphobia and opined that appellant was totally disabled. She opined that appellant’s symptoms were causally related to the stressful environment and demands placed on him at his job.

By decision dated November 26, 2004, the Office denied reconsideration of appellant’s claim finding that no new and material evidence was submitted which provided details or actual evidence of any excessive workload.

LEGAL PRECEDENT -- ISSUE 1

Section 10.606(b)(2) of Title 20 of the Code of Federal Regulations provides that a claimant may obtain review of the merits of the claim by either: (1) showing that the Office erroneously applied or interpreted a specific point of law; (2) advancing a relevant legal argument not previously considered by the Office; or (3) constituting relevant and pertinent new evidence not previously considered by the Office.¹ Section 10.608(b) provides that, when an application for reconsideration does not meet at least one of the three requirements enumerated

¹ 20 C.F.R. § 10.606(b)(2).

under section 10.606(b)(2), the Office will deny the application for reconsideration without reopening the case for a review on the merits.²

ANALYSIS -- ISSUE 1

The Board notes that appellant's claim was denied on the basis that he failed to establish the factual aspects of his claim for an emotional condition. The Office found that, although appellant made general references to overwhelming work assignments and a problematic workload, he failed to provide supporting evidence to confirm the existence of employment factors. The Office further found that appellant failed to provide a physician's rationalized opinion which explained how the reported factors of appellant's federal employment were responsible for his current condition.

In his September 28, 2004 request for reconsideration, appellant stated that he compiled a list of his current relays and drops and provided this to his physician so that his workload could be understood. However, many of these assertions are essentially the same as the ones he previously made to the Office. To the extent that the Office had previously considered and rejected appellant's argument, it does not constitute a basis for reopening his case for merit review.³ In any event, these assertions in the September 28, 2004 request for reconsideration neither alleged, nor demonstrated that the Office erroneously applied or interpreted a specific point of law. Additionally, appellant did not advance a relevant legal argument not previously considered by the Office. Consequently, appellant is not entitled to a review of the merits of his claim based on the first and second above-noted requirements under section 10.606(b)(2).⁴

With respect to the third requirement, constituting relevant and pertinent new evidence not previously considered by the Office, appellant submitted a copy of his September 4, 2003 statement and a list of his current relays and drops, which were previously of record. The Board has held that the submission of evidence which repeats or duplicates evidence already in the case record does not constitute a basis for reopening the case.⁵ He also submitted a copy of Dr. Latif's July 21, 2004 report in which the physician opined that appellant's conditions and symptoms were causally related to the stressful environment and demands placed on him at his job. The Board notes that, although overwork may be a compensable factor of employment, it must be established on a factual basis.⁶ In this case, the Office's most recent merit decision, which considered essentially the same allegations regarding appellant's workload, did not find that the evidence supported such allegations of overwork. Although Dr. Latif's report constitutes new evidence, her opinion regarding causal relationship does not constitute relevant evidence as it is based solely on appellant's previously considered assertions regarding his workload, which were not previously established factually. Inasmuch as appellant did not submit any "relevant

² 20 C.F.R. § 10.608(b).

³ See *John Crawford*, 52 ECAB 395 (2001).

⁴ 20 C.F.R. § 10.608(b)(2)(i) and (ii).

⁵ *Denis M. Dupor*, 51 ECAB 482 (2000). See also *John Crawford*, *supra* note 3.

⁶ *Robert Bartlett*, 51 ECAB 664, 666 (2000); *Sherry L. McFall*, 51 ECAB 436, 439 (2000).

and pertinent new evidence,” he is not entitled to a review of the merits of his claim based on the third requirement under section 10.606(b)(2).⁷

CONCLUSION

The Board finds that the Office properly denied appellant’s request for reconsideration as no new and relevant evidence had been presented.

ORDER

IT IS HEREBY ORDERED THAT the November 26, 2004 decision of the Office of Workers’ Compensation Programs is affirmed.

Issued: April 4, 2006
Washington, DC

Alec J. Koromilas, Chief Judge
Employees’ Compensation Appeals Board

David S. Gerson, Judge
Employees’ Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees’ Compensation Appeals Board

⁷ 20 C.F.R. § 10.608(b)(2)(iii).