

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

K.E., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Albuquerque, NM, Employer**

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**Docket No. 06-961
Issued: August 7, 2006**

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

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge

JURISDICTION

On March 17, 2006 appellant filed a timely appeal from the Office of Workers' Compensation Programs' January 18, 2006 nonmerit decision denying her request for reconsideration. Because more than one year has elapsed between the most recent merit decision dated January 27, 2005 and the filing of this appeal on March 17, 2006, the Board lacks jurisdiction to review the merits of her claim.

ISSUE

The issue is whether the Office properly refused to reopen appellant's case for reconsideration of her claim under 5 U.S.C. § 8128.

FACTUAL HISTORY

Appellant, a 36-year-old mail carrier, filed a Form CA-2 claim for benefits on August 6, 2003, alleging that she experienced pain in her left side, the left side of her back and her ribs and stomach causally related to employment factors.

On September 8, 2003 the Office advised appellant that it required additional factual and medical evidence to determine whether she was eligible for compensation benefits. The Office

asked appellant to submit a comprehensive medical report from her treating physician describing her symptoms and the medical reasons for her condition and an opinion as to whether her claimed condition was causally related to her federal employment. The Office requested that appellant submit the additional evidence within 30 days.

By decision dated October 28, 2003, the Office denied appellant's claim for compensation based on an employment-related back condition.

By letter dated October 25, 2004, appellant requested reconsideration. Appellant submitted an October 14, 2004 report from Dr. Herbert V. Rachelson, a Board-certified orthopedic surgeon, who noted continued pain in appellant's chest and ribs with lifting and exertion and tenderness in the left subbreast area to palpation. He advised that appellant probably had a costochondral separation and associated chronic low back pain secondary to strain. Dr. Rachelson stated that appellant underwent a magnetic resonance imaging (MRI) scan of thoracic spine on January 19, 2004 which was normal; an MRI scan of the lumbosacral spine on July 3, 2003 which revealed a negative lumbar study; and a bone scan on September 9, 2003 for back pain and sacral lesion which indicated that there was no active lesion being hemangiomatic. He recommended that appellant continue with light work with no climbing ladders, no kneeling and no lifting more than 20 pounds occasionally and 10 pounds frequently.

By decision dated January 27, 2005, the Office denied modification of the October 28, 2003 decision.

On September 7, 2005 appellant requested reconsideration.

By decision dated January 18, 2006, 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.¹ 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.²

ANALYSIS

In the present case, appellant has not shown that the Office erroneously applied or interpreted a specific point of law. She did not advance a relevant legal argument not previously considered by the Office. Appellant did not submit any additional medical evidence in

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

² *Howard A. Williams*, 45 ECAB 853 (1994).

connection with her March 17, 2006 reconsideration request. Thus, the request did not contain any new and relevant evidence for the Office to review. In addition, appellant's reconsideration request contains arguments that are cumulative and repetitive of contentions that were presented and rejected by the Office in previous decisions. The Board finds that the Office properly refused to reopen appellant's claim for reconsideration.

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the January 18, 2006 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: August 7, 2006
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board