



## **FACTUAL HISTORY**

On July 11, 2002 appellant, then a 52-year-old letter carrier, filed an occupational disease claim alleging that she sustained an emotional condition due to factors of her federal employment. She submitted an undated narrative statement in support of her claim.

On July 30, 2002 the Office informed appellant that the information submitted was insufficient to establish her claim and advised her to provide additional evidence detailing the specific factors of employment alleged to have caused her emotional condition, as well as rationalized medical evidence to support her claim. In an undated letter to the Office, she claimed that she was harassed, threatened, coerced, belittled, humiliated and deceived by her supervisors. Appellant alleged that she was reassigned to positions and shifts which she found objectionable and was sent for numerous "fitness-for-duty examinations." She further alleged that her supervisors had her followed and told her they had the power to move her anywhere at any time. On September 23, 2002 the employing establishment controverted appellant's claim, contending that her allegations related to administrative matters that were handled in a professional manner and were, therefore, not compensable.

By decision dated October 17, 2002, the Office denied appellant's claim, finding that she had failed to allege a compensable factor of employment and had not established that she was injured in the performance of duty.

On October 30, 2002 appellant requested an oral hearing which was held on July 8, 2003. She testified that she had a post-traumatic stress disorder and depressive disorder because the employing establishment failed to place her and treat her as a "rehab[ilitated]" employee following her prior accepted claim for carpal tunnel syndrome. Appellant reiterated her allegations of coercion and harassment by her supervisors and indicated that she had filed an Equal Employment Opportunity complaint.

By decision dated November 3, 2003, an Office hearing representative affirmed the October 17, 2003 decision, finding that appellant had not establish any compensable employment factors. The hearing representative further found that appellant's reactions of stress were self-generated; that the employing establishment had not erred or acted abusively regarding administrative or personnel matters; and that appellant had not submitted any corroborating evidence substantiating her allegations.

On November 1, 2004 appellant's representative requested reconsideration, arguing that the evidence supported that her emotional condition occurred in the performance of duty. He reiterated her previous allegations that her condition arose as a result of constantly changing jobs and work hours. In support of the request, appellant submitted a March 31, 2004 medical report from Alison Y. Kirk, PhD., and medical reports from Dr. Jana M. Williams, a treating physician, dated June 1, 2002; November 3 and 4, 2003; and June 22, 2004.

By decision dated January 6, 2006, the Office denied appellant's request for reconsideration on the grounds that she had not provided any new or relevant evidence supporting her claim.

## LEGAL PRECEDENT

To require the Office to reopen a case for merit review under section 8128(a) of the Act,<sup>2</sup> the Office's regulations provide that a claimant must: (1) show that the Office erroneously applied or interpreted a specific point of law; (2) advance a relevant legal argument not previously considered by the Office; or (3) submit relevant and pertinent new evidence not previously considered by the Office.<sup>3</sup> To be entitled to a merit review of an Office decision denying or terminating a benefit, a claimant also must file his or her application for review within one year of the date of that decision.<sup>4</sup> When a claimant fails to meet one of the above standards, the Office will deny the application for reconsideration without reopening the case for review on the merits.<sup>5</sup>

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 a case.<sup>6</sup> The Board also has held that the submission of evidence which does not address the particular issue involved does not constitute a basis for reopening a case.<sup>7</sup>

## ANALYSIS

In the November 1, 2004 request for reconsideration, appellant's representative repeated her contentions that her emotional condition arose as a result of constantly changing jobs and work hours and from not being offered a permanent position as a rehabilitated employee. The submission of evidence or argument that repeats or duplicates that already in the case record does not constitute a basis for reopening a case.<sup>8</sup> The representative did not claim that the Office erroneously applied or interpreted a specific point of law or evidence; or advance a relevant legal argument not previously considered by the Office.

Appellant submitted medical reports from Dr. Kirk and Dr. Williams. In its November 3, 2004 decision, the Office hearing representative found that she had not established any compensable employment factors. Therefore, the medical reports submitted by her were not

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<sup>2</sup> 5 U.S.C. §§ 8101-8193. Section 8128(a) of the Act provides that [t]he Secretary of Labor may review an award for or against payment of compensation at any time on her own motion or on application.

<sup>3</sup> 20 C.F.R. § 10.606(b)(2).

<sup>4</sup> 20 C.F.R. § 10.607(a).

<sup>5</sup> 20 C.F.R. § 10.608(b).

<sup>6</sup> *Arlesa Gibbs*, 53 ECAB 204 (2001); *James E. Norris*, 52 ECAB 93 (2000).

<sup>7</sup> *Ronald A. Eldridge*, 53 ECAB 218 (2001); *Alan G. Williams*, 52 ECAB 180 (2000).

<sup>8</sup> *Edward W. Malaniak*, 51 ECAB 279 (2000).

relevant to the issue in the case. The Board has held that the submission of evidence which does not address the particular issue involved does not constitute a basis for reopening a case.<sup>9</sup>

Appellant did not show that the Office erroneously applied or interpreted a specific point of law; advance a relevant legal argument not previously considered by the Office; or submit new and relevant evidence not previously considered. As she did not meet any of the necessary regulatory requirements, appellant is not entitled to further merit review.

### **CONCLUSION**

The Board finds that the Office properly denied appellant's request for review of the merits of her claim under section 8128 of the Act.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated January 6, 2006 is affirmed.

Issued: July 17, 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

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<sup>9</sup> See *Arlesa Gibbs*, *supra* note 6.