

were related to stress in his employment. He stopped work on February 7, 2003 and retired effective March 14, 2003.

By letter dated April 25, 2003, the Office advised appellant of the evidence needed to establish his claim, including a detailed description of the employment conditions and incidents to which he attributed his conditions, and a comprehensive medical report including an explanation how employment factors contributed to his conditions. By decision dated September 15, 2003, the Office, after noting that no further evidence was received in response to its April 25, 2003, request, found that the evidence was not sufficient to establish appellant's claim because he did not provide a statement detailing the employment factors that he believed contributed to his medical condition.

By letter dated September 21, 2003, appellant requested a hearing. At a hearing held on April 28, 2004 and in an 11-page written statement dated April 25, 2004, appellant described in detail the employment conditions and incidents to which he attributed his conditions. He submitted a statement from a coworker attesting to his problems with a supervisor and his feeling of being overwhelmed, and medical evidence, including reports from Dr. Abdulla M. Abdulla, a Board-certified cardiologist, describing his heart condition and a May 18, 2004 report from Dr. Riaz Rassekh, a Board-certified family practitioner, stating that he had "worsening depression and anxiety most probably related to the stressful nature of his work" and that "sudden stressful situations at work must have further worsened or perhaps triggered his coronary syndrome."

By decision dated July 21, 2004, an Office hearing representative, after setting forth appellant's account of employment conditions and incidents, found:

"The claimant has provided no independent evidence in support of his contentions and they are not accepted as factual and as having occurred as alleged. Further, many of the claimant's allegations relate to his disagreement with work assignments, the work environment, or administrative instruction. Such matters, even if established as factual, would be noncompensable absent evidence of error or abuse by the employing establishment.

"The factual evidence remains insufficient to establish the element of fact of injury."

By undated letter received by the Office on August 4, 2004, appellant requested reconsideration, in which he contended that other employees at the employing establishment had been harassed and that he had proven his case. By decision dated August 11, 2004, the Office found that appellant's request for reconsideration was insufficient to warrant review of its prior decisions.

By letter dated July 18, 2005, appellant requested reconsideration and submitted additional medical reports. Many of these reports addressed conditions not involved with his claim, such as an epidermal cyst, bronchitis, back pain and dermatitis. Some addressed his heart condition, including testing done for chest pain. By decision dated August 18, 2005, the Office found appellant's request for reconsideration insufficient to warrant a review of the merits of his

case. The Office found that no new factual evidence had been submitted to support any compensable work factors, and that the voluminous medical evidence he submitted was immaterial.

LEGAL PRECEDENT

Section 8128(a) of the Federal Employees' Compensation Act vests the Office with discretionary authority to determine whether it will review an award for or against compensation:

“The Secretary of Labor may review an award for or against payment of compensation at any time on his own motion or on application. The Secretary, in accordance with the facts found on review, may --

(1) end, decrease, or increase the compensation awarded; or

(2) award compensation previously refused or discontinued.”

Under 20 C.F.R. § 10.606(b)(2), 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 new evidence not previously considered by the Office. Section 10.608(b) provides that when an application for review of the merits of a claim does not meet at least one of these three requirements the Office will deny the application for review without reviewing the merits of the claim. Evidence that does not address the particular issue involved does not constitute a basis for reopening a case.²

ANALYSIS

Appellant's claim for compensation for occupational heart and psychiatric conditions was denied by the Office on the grounds that he had not substantiated any compensable factors of employment. When no compensable employment factors are established, the Office need not consider the medical evidence.³ The only evidence relevant to the Office's decision denying compensation would be evidence supporting that he experienced compensable factors of employment. Thus the medical evidence that appellant submitted with his July 18, 2005 request for reconsideration was, at least at this point in the development of his case, irrelevant, as the threshold issue of compensable employment factors has not yet been established. This request for reconsideration contained no legal arguments. Appellant did not meet any of the criteria of the regulations so as to require the Office to conduct a further review of the merits of his case.

CONCLUSION

The Office properly refused to reopen appellant's case for further review of the merits of his claim.

² *Edward Matthew Diekemper*, 31 ECAB 224 (1979).

³ *Andrew J. Sheppard*, 53 ECAB 170 (2001).

ORDER

IT IS HEREBY ORDERED THAT the August 18, 2005 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 9, 2006
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board