

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

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REVA MORGAN, Appellant

and

U.S. POSTAL SERVICE, POST OFFICE,  
New Orleans, LA, Employer

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**Docket No. 06-172  
Issued: March 20, 2006**

*Appearances:*  
Reva Morgan, *pro se*  
Office of Solicitor, for the Director

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chief Judge  
DAVID S. GERSON, Judge  
MICHAEL E. GROOM, Alternate Judge

**JURISDICTION**

On October 31, 2005 appellant filed a timely appeal of a June 24, 2005 nonmerit decision of the Office of Workers' Compensation Programs denying his request for reconsideration. Because more than one year has passed between the Office's last merit decision of June 7, 2004 and the filing of this appeal, the Board does not have jurisdiction to review the merits of appellant's claim pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d)(2).

**ISSUE**

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

**FACTUAL HISTORY**

On February 14, 2003 appellant, then a 45-year-old mark-up clerk, filed a traumatic injury claim alleging that she sustained multiple injuries to her body when the elevator she was exiting from at work closed on her. Appellant stopped work on that date and returned to work on April 22, 2003 in a modified position. The evidence reflects that appellant's modified position

was based on a job offer in another claim, file number 160235837. The evidence further reflects that there was a change in the tour hours for the modified assignment effective May 17, 2003, which appellant did not sign. On May 17, 2003 appellant stopped work.

By decision dated April 15, 2003, the Office denied the traumatic injury claim of February 14, 2003, finding that fact of injury had not been established. Appellant disagreed with the decision and requested an oral hearing. By decision dated November 6, 2003, an Office hearing representative found that the evidence established that appellant sustained a compensable injury in the performance of duty on February 14, 2003. Accordingly, the Office hearing representative reversed the Office's April 15, 2003 decision. In a letter dated November 25, 2003, the Office accepted the conditions of cervical contusion, right shoulder contusion, right chest contusion and right hand for the work-related injury of February 14, 2003. The Office further noted that the evidence showed that the conditions resolved on April 22, 2003.

On December 11, 2003 appellant filed a Form CA-7 claim for compensation beginning May 17, 2003. By decision dated March 16, 2004, the Office denied the claim as there was insufficient medical evidence to establish that appellant's disability was causally related to the accepted injury of February 14, 2003. In a decision dated June 7, 2004, the Office denied modification.

In a letter dated June 2, 2005, appellant requested reconsideration of her claim. She stated that she did not stop working on May 17, 2003 due to a change in her modified job assignment, but stopped due to her February 14, 2003 traumatic injury. Appellant argued that the employing establishment had made false allegations and falsified her medical documentation. She submitted evidence pertaining to a grievance of May 16, 2003, magnetic resonance imaging (MRI) scans dated May 7, 2003 of the cervical spine and right shoulder and an August 14, 2004 medical report from Dr. Joseph P. Braud<sup>1</sup> who stated that appellant was under his treatment and was able to return to work on or about September 18, 2004. Appellant also submitted duplicative copies of a December 31, 2003 return to work certificate from the employing establishment and a December 11, 2003 attending physician's Form CA-20 report from Dr. Braud.

By decision dated June 24, 2005, the Office determined that appellant's request for reconsideration was insufficient to warrant further merit review of the claim.

### **LEGAL PRECEDENT**

Section 10.608(a) of the Code of Federal Regulations provides that a timely request for reconsideration may be granted if the Office determines that the employee has presented evidence and/or argument that meets at least one of the standards described in section 10.606(b)(2).<sup>2</sup> The application for reconsideration must be submitted in writing and set forth arguments and contain evidence that either: (i) shows that the Office erroneously applied or interpreted a specific point of law; or (ii) advances a relevant legal argument not previously considered by the Office; or (iii) constitutes relevant and pertinent new evidence not previously

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<sup>1</sup> Dr. Braud's credentials are not of record.

<sup>2</sup> 20 C.F.R. § 10.608(a) (1999).

considered by the Office.<sup>3</sup> Section 10.608(b) provides that, when a request for reconsideration is timely, but fails to meet at least one of these three requirements, the Office will deny the application for reconsideration without reopening the case for a review of the merits.<sup>4</sup>

### ANALYSIS

The issue before the Board is whether she met any of the requirements of 20 C.F.R. § 10.606(b)(2), to reopen her claim for further merit review.

Appellant raised the argument that the Office did not properly consider the basis for why she stopped working on May 17, 2003, which she contended was due to residuals of her February 14, 2003 injury and not due to the tour changes in her modified job assignment. In this case, appellant worked a modified assignment as a result of another claim. Evidence of tour changes made to her limited-duty assignment, however, are of no probative value as it fails to address the issue of whether appellant's disability commencing May 17, 2003 was due to her accepted work-related injury of February 14, 2003. Appellant did not show that the Office erroneously applied or interpreted a specific point of law, or advance a relevant legal argument not previously considered by the Office. Although appellant submitted grievance material arising out of the tour changes, this does not constitute new and relevant evidence to the underlying issue in this case which is medical in nature.

Appellant also submitted the August 14, 2004 report of Dr. Braud. He did not address the issue of appellant's disability or relate her disability to the February 14, 2003 injury. Dr. Braud's report does not constitute new and relevant evidence with respect to appellant's contention that she stopped work on May 17, 2003 due to the effects of the work-related injury of February 14, 2003 and was not sufficient to warrant further merit review. The MRI scan reports of May 7, 2003, although new, are not relevant as they do not address the relevant issue in this case. Appellant also submitted duplicative copies of a December 31, 2003 return to work certificate from the employing establishment and a December 11, 2003 attending physician's Form CA-20 report from Dr. Braud; however, this evidence was previously of record and considered by the Office. The Board has held that evidence that repeats or duplicates evidence already in the case record has no evidentiary value.<sup>5</sup>

As 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 constitute relevant and pertinent evidence not previously considered by the Office, the Office properly denied her request for reconsideration.

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<sup>3</sup> 20 C.F.R. § 10.606(b)(1)-(2).

<sup>4</sup> 20 C.F.R. § 10.608(b).

<sup>5</sup> See *Manuel Gill*, 52 ECAB 282 (2001).

**CONCLUSION**

The Board finds that the Office properly refused to reopen appellant's claim for merit review under 5 U.S.C. § 8128(a).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated June 24, 2005 is affirmed.

Issued: March 20, 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