

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

A.G., Appellant)

and)

DEPARTMENT OF THE ARMY, RED RIVER)
ARMY DEPOT, Texarkana, TX, Employer)

**Docket No. 06-1256
Issued: November 27, 2006**

Appearances
Appellant, 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
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On May 8, 2006 appellant filed a timely appeal from a February 3, 2006 Office of Workers' Compensation Programs' nonmerit decision. Because more than one year has elapsed between the last merit decision dated November 8, 2004 and the filing of this appeal the Board lacks jurisdiction to review the merits of appellant's claim pursuant to 20 C.F.R. §§ 501(c)(2) and 501.3(d)(2).

ISSUE

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

FACTUAL HISTORY

This is the third appeal before the Board. By decision dated January 21, 1997, the Board found that appellant had not met his burden of proof to establish that his back condition was causally related to his August 28, 1992 employment injury or that his injury resulted in disability

after September 28, 1992.¹ Appellant requested reconsideration and the Office denied his requests by decisions dated March 17, June 19 and July 29, 1997 and April 16, 1998 and January 21, 1999. In the January 21, 1999 decision, the Office found that it could not be determined if the persons designing the clinic notes submitted by appellant were physicians and that these notes did not explain how his current pain was related to his August 28, 1992 injury or how this injury resulted in disability after September 28, 1992. Appellant again requested reconsideration, which the Office denied in a February 26, 2001 nonmerit decision. In a March 19, 2002 decision, the Board found that the Office properly refused to reopen appellant's case for further review of the merits of his claim under 5 U.S.C. § 8128. The complete facts of this case are set forth in the Board's March 19, 2002 decision and are herein incorporated by reference.²

By decisions dated April 30 and August 1, 2003 and November 8, 2004 the Office denied modification of the January 21, 1999 Office decision. By letter dated October 28, 2005, appellant requested reconsideration. He indicated that he had scheduled a medical examination and intended to present additional medical evidence in support of his claim. Appellant stated that he required an extension of time in which to acquire and submit this new evidence. He did not submit any additional medical evidence with his request.

By decision dated February 3, 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 constituting relevant and pertinent evidence not previously considered by the Office.³ 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.⁴

ANALYSIS

In the present case, appellant has not shown that the Office erroneously applied or interpreted a specific point of law. He did not advance a relevant legal argument not previously considered by the Office and appellant has not submitted any relevant and pertinent evidence not previously considered by the Office. Appellant did not submit any evidence or legal argument which addressed the relevant issues of whether his back condition was causally related to his August 28, 1992 employment injury or whether this injury resulted in disability after

¹ Docket No. 95-2436 (issued January 21, 1997).

² Docket No. 01-1322 (issued March 19, 2002).

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

⁴ *Howard A. Williams*, 45 ECAB 853 (1994).

September 28, 1992. He stated his intention to acquire additional medical evidence and submit this new evidence with his request for reconsideration; however, appellant did not submit any medical evidence in connection with his October 28, 2005 reconsideration request. Thus, the request did not contain any new and relevant evidence for the Office to review. Accordingly, the Board finds that the Office did not abuse its discretion in refusing to reopen appellant's claim for reconsideration.

CONCLUSION

The Board finds that 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 February 3, 2006 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: November 27, 2006
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board