



By decision dated February 7, 1997, the Office denied appellant's claim for an injury in the performance of duty on the grounds that the medical evidence did not demonstrate that his medical conditions were causally related to his employment.

By letter dated February 28, 1997, appellant requested a hearing, which was held on November 19, 1997. By decision dated January 29, 1998, an Office hearing representative affirmed the February 7, 1997 decision.

By letter dated January 28, 1999, appellant requested reconsideration.<sup>1</sup> In his request, he indicated that he had submitted several letters, including those dated February 23, 1996, April 2 and December 18, 1997, December 29 and 30, 1998.

Appellant repeated his reconsideration request on December 31, 2004. By decision dated April 21, 2005, the Office denied appellant's December 31, 2004 request for reconsideration on the grounds that it was untimely and failed to establish clear evidence of error.

On January 18, 2006 the Board issued an order remanding case.<sup>2</sup> The Board found that appellant's January 28, 1999 letter was a timely request for reconsideration. The Board set aside the April 25, 2005 decision and remanded the case for the Office to issue an appropriate decision.

By decision dated November 22, 2006, the Office denied modification of its previous decision. It found that appellant had not presented sufficient medical evidence to establish that he sustained an injury as a result of work activities on September 8, 1995.

On November 21, 2007 appellant requested reconsideration. He alleged that the Office misrepresented facts, that his hearing transcript was incomplete, and his medical bills and expenses had not been paid.

By decision dated November 30, 2007, the Office denied appellant's request for reconsideration without a review of the merits on the grounds that his request neither raised substantial legal questions nor included new and relevant evidence.

### **LEGAL PRECEDENT**

Under section 8128(a) of the Federal Employees' Compensation Act,<sup>3</sup> the Office may reopen a case for review on the merits in accordance with the guidelines set forth in section 10.606(b)(2) of the implementing federal regulations, which provides that a claimant may obtain

---

<sup>1</sup> The letter was stamped as received by the Office on February 2, 1999; however, it did not keep a copy of the envelope.

<sup>2</sup> Docket No. 05-1612 (issued January 18, 2006).

<sup>3</sup> 5 U.S.C. § 8128(a).

review of the merits if the written application for reconsideration, including all supporting documents, sets forth arguments and contains evidence that:

“(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 considered by the [the Office].”<sup>4</sup>

Section 10.608(b) provides that any application for review of the merits of the claim which does not meet at least one of the requirements listed in section 10.606(b) will be denied by the Office without review of the merits of the claim.<sup>5</sup>

### ANALYSIS

Appellant disagreed with the denial of his claim and requested reconsideration on November 20, 2007.

Appellant alleged that there was a misrepresentation of facts. The Board notes this is not relevant to the denial of his claim, as the Office accepted that, on September 8, 1995, he was rear-ended in the performance of duty. The underlying issue is medical in nature; *i.e.*, whether the medical evidence establishes that the September 8, 1995 work incident caused a medical condition. Appellant did not submit any new medical evidence relevant to this underlying issue. 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>6</sup>

Appellant also alleged that his hearing transcript was incomplete, and that his medical bills and expenses had not been paid. However, as noted, the issue in the case is medical in nature. The Office found that appellant had not presented medical evidence which demonstrated that his medical conditions were causally related to his employment. These arguments regarding payment of his medical bills and an incomplete transcript are not relevant to the reason that his claim was denied.<sup>7</sup>

Appellant therefore 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 he did not meet any of the necessary regulatory requirements, he is not entitled to further merit review.

---

<sup>4</sup> 20 C.F.R. § 10.606(b).

<sup>5</sup> 20 C.F.R. § 10.608(b).

<sup>6</sup> *Ronald A. Eldridge*, 53 ECAB 218 (2001); *Alan G. Williams*, 52 ECAB 180 (2000).

<sup>7</sup> *Id.*

**CONCLUSION**

The Board finds 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(a).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated November 30, 2007 is affirmed.

Issued: October 14, 2008  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

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