

issue in the case could equally well be addressed by requesting reconsideration from OWCP and submitting evidence not previously considered which establishes that her condition was causally related to factors of her federal employment.

On December 6, 2011 appellant, through counsel, filed a notice of appeal to the Board and submitted a timely request for oral argument, asserting that OWCP improperly denied her claim for compensation.

The Board has duly considered the matter and finds that OWCP properly found in its June 9, 2011 decision that appellant was not entitled to an oral hearing or examination of the written record as a matter of right. Section 8124(b)(1) of the Federal Employees' Compensation Act (FECA) provides that a claimant for compensation who is not satisfied with a decision of the Secretary is entitled, on request made within 30 days after the date of the issuance of the decision and before review under section 8128(a), to a hearing on her claim before a representative of the Secretary.¹ As appellant had previously requested reconsideration on September 24, 2009 and OWCP issued its reconsideration decision on December 17, 2009, she was not entitled to a hearing as a matter of right under section 8124(b)(1) of FECA.²

OWCP then exercised its discretion and determined that appellant's hearing request could equally well be addressed by requesting reconsideration and submitting additional evidence to address the issue in this case. The Board finds that there is no evidence of record that OWCP abused its discretion in denying appellant's hearing request.³ Thus, the Board finds that OWCP's June 9, 2011 decision denying appellant's request for an oral hearing was proper under the law and facts of this case.⁴

The Board further finds that appellant's request for oral argument before the Board should be denied. Pursuant to 20 C.F.R. § 501.5(a), oral argument may be held in the discretion of the Board.⁵ Although her request was timely filed, appellant failed to provide a need for further oral argument before the Board. OWCP's June 9, 2011 nonmerit decision determined that appellant was not entitled to a hearing as a matter of right because she had previously requested reconsideration. In the opinion of the Board, oral argument in this appeal would further delay issuance of a Board decision and not serve a useful purpose. For these reasons, oral argument is denied.

¹ 5 U.S.C. § 8124(b)(1); *Peggy R. Lee*, 46 ECAB 527 (1995).

² *Id.*

³ *Daniel J. Perea*, 42 ECAB 214, 221 (1990).

⁴ Appellant must file her reconsideration request within one year of OWCP's December 17, 2009 merit decision. OWCP regulations and procedure provide that OWCP will reopen a claimant's case for merit review, notwithstanding the one-year filing limitation set forth in 20 C.F.R. § 10.607(a), if the claimant's application for review shows clear evidence of error on the part of OWCP. *Id.* at § 10.607(b); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.3d (January 2004).

⁵ 20 C.F.R. § 501.5(a).

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decision dated June 9, 2011 is affirmed and appellant's request for oral argument before the Board is denied.

Issued: January 25, 2013
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board