



## **FACTUAL HISTORY**

This case has previously been before the Board. On January 4, 2010 appellant, then a 31-year-old mail carrier, filed a traumatic injury claim alleging that she developed traumatic stress when she was robbed at gun point on December 31, 2009 while delivering mail.

By decision dated March 1, 2010, OWCP denied appellant's emotional condition claim. It found that Dr. Youg J. Kwon, a Board-certified psychiatrist, offered a speculative opinion as he stated that appellant's symptoms "appear" to be related to her employment incident.

Appellant requested an oral hearing before an OWCP hearing representative on March 16, 2010. By decision dated July 20, 2010, the hearing representative denied appellant's claim on the grounds that the record was devoid of sufficient medical evidence showing that there was an emotional condition due to the incident.

Appellant submitted a note dated September 2, 2010 from Dr. Pawan K. Garg, a Board-certified psychiatrist, who described the robbery incident on December 31, 2009 and stated that appellant had experienced intrusive recollection of events, flashbacks, severe dread and insomnia. Dr. Garg diagnosed post-traumatic stress disorder (PTSD) as a direct result of emotional trauma she received during her work duties. He stated that appellant was totally disabled.

In a letter dated September 8, 2010, appellant requested reconsideration of the July 20, 2010 decision. On October 20, 2010 OWCP found that a second opinion examination was necessary. On November 22, 2010 it referred appellant for an examination to Dr. Dan Guyer, a Board-certified psychiatrist. The examination was scheduled for December 8, 2010. In a letter dated November 27, 2010, appellant refused to participate in the scheduled second opinion examination. On December 9, 2010 the doctor's office confirmed that appellant had not appeared for the December 8, 2010 scheduled examination.

By decision dated January 5, 2011, OWCP denied modification of its prior decisions.

Appellant requested reconsideration on June 22, 2011. She resubmitted the September 2, 2010 note of Dr. Garg with a May 3, 2011 addendum paragraph. Appellant also resubmitted factual information. Dr. Garg's addendum reiterated that appellant's PTSD condition was directly related to trauma sustained while performing her letter carrier duties on December 31, 2009. By decision dated September 6, 2011, OWCP declined to reopen appellant's claim for further consideration of the merits. The Board affirmed OWCP's September 6, 2011 nonmerit decision on April 25, 2012.<sup>2</sup> The facts and circumstances of the case as set forth in the Board's prior decision are adopted herein by reference.

Counsel requested reconsideration on October 12, 2012. Dr. Garg completed an Ohio State Workers' Compensation form on September 10, 2012. He noted that he first examined appellant on September 2, 2010 and diagnosed PTSD. Dr. Garg reiterated that appellant had emotional problems since her work injury as she was robbed at gunpoint while performing her

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<sup>2</sup> Docket No. 12-79 (issued April 25, 2012).

letter carrier duties on December 31, 2009. He stated that appellant was traumatized with anxiety and by recurring intrusive recollections of the trauma. Dr. Garg opined that appellant's injury was directly caused by her workers' compensation injury.

By decision dated December 6, 2012, OWCP declined to reopen appellant's claim for reconsideration of the merits finding that the medical report was duplicative of Dr. Garg's September 2, 2010 and May 3, 2011 notes.

### **LEGAL PRECEDENT**

Section 8128(a) of FECA provides that OWCP may review an award for or against payment of compensation at any time on its own motion or on application by the claimant.<sup>3</sup> Section 10.606(b) of Title 20 of the Code of Federal Regulations provide that a claimant may obtain review of the merits of the claim by submitting in writing an application for reconsideration which sets forth arguments or evidence and shows that OWCP erroneously applied or interpreted a specific point of law; or advances a relevant legal argument not previously considered by OWCP; or includes relevant and pertinent new evidence not previously considered by OWCP.<sup>4</sup> Section 10.608 of OWCP's regulations provide that, when a request for reconsideration is timely, but does not meet at least one of these three requirements, OWCP will deny the application for review without reopening the case for a review on the merits.<sup>5</sup>

The Board has held that the submission of evidence which repeats or duplicates evidence already in the case record does not constitute a basis for reopening a case. The Board has also 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>

### **ANALYSIS**

Appellant filed a claim for PTSD arising from an accepted employment incident of being robbed at gunpoint while delivering mail on December 31, 2009. OWCP denied her claim on the grounds that the medical evidence was not sufficient to establish a causal relationship between her diagnosed condition and the accepted employment incident. Appellant most recently requested reconsideration of the January 5, 2011 merit decision on October 12, 2012 and submitted medical evidence.

The Board does not have jurisdiction over the January 5, 2011 OWCP merit decision. The issue presented is whether appellant met any of the requirements of 20 C.F.R. § 10.606(b)(3) requiring OWCP to reopen the case for review of the merits of her claim. In the October 12, 2012 request for reconsideration, appellant did not show that OWCP erroneously

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<sup>3</sup> 5 U.S.C. §§ 8101-8193, 8128(a).

<sup>4</sup> 20 C.F.R. § 10.606.

<sup>5</sup> *Id.* at § 10.608.

<sup>6</sup> *M.E.*, 58 ECAB 694 (2007).

applied or interpreted a specific point of law. She did not advance a new and relevant legal argument.

Appellant submitted a form report from Dr. Garg dated September 10, 2012. This report reiterated the diagnosed PTSD and described the employment incident that appellant was injured at work when robbed at gunpoint while performing her letter carrier duties on December 31, 2009. Dr. Garg listed that she was traumatized with anxiety and by recurring intrusive recollections of the trauma. He checked marked that appellant's injury was directly caused by her workers' compensation injury.

OWCP found that this report was repetitious. It noted that Dr. Garg did not provide a detailed discussion of findings upon clinical interview and results of any mental status testing with full discussion of findings and a well-reasoned opinion explaining how he concluded that the diagnosed condition of PTSD was causally related to the December 31, 2009 employment incident.

The Board finds that Dr. Garg's September 10, 2012 form report is repetitious of his September 2, 2010 and May 3, 2011 notes.

The Board accordingly finds that appellant did not submit relevant and pertinent new evidence not previously considered. Pursuant to 20 C.F.R. § 10.608, OWCP properly denied merit review.

#### **CONCLUSION**

The Board finds that as appellant failed to submit pertinent new and relevant evidence; therefore, OWCP properly denied further merit.

**ORDER**

**IT IS HEREBY ORDERED THAT** the December 6, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 25, 2013  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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