

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Employment Services

VINCENT C. GRAY
MAYOR



LISA MARÍA MALLORY
DIRECTOR

COMPENSATION REVIEW BOARD

CRB No. 12-184

SAUNDRA TAYLOR,
Claimant–Petitioner,

v.

VERIZON COMMUNICATIONS, INC.,
Self-Insured Employer–Respondent.

In re: Petitioner’s Motion for Reconsideration of the CRB’s Decision and Remand Order of June 18, 2013 concerning an Appeal from an October 25, 2012 Order on Remand of Administrative Law Judge Leslie A. Meek
AHD No. 03-216E, OWC No. 571165

Saundra Taylor, *pro se* Petitioner
Curtis B. Hane, Esquire, for the Respondent

Before JEFFREY P. RUSSELL and MELISSA LIN JONES, *Administrative Appeals Judges*, and LAWRENCE D. TARR, *Chief Administrative Appeals Judge*.

JEFFREY P. RUSSELL, for the Compensation Review Board.

ORDER DENYING MOTION FOR RECONSIDERATION

OVERVIEW

On June 18, 2013, the Compensation Review Board (CRB) issued a Decision and Remand Order in the above captioned matter, in which the CRB addressed issues raised by Petitioner Saundra Taylor in an appeal of an Order on Remand issued by an Administrative Law Judge (ALJ) in the hearings section of the Department of Employment Services (DOES) on October 25, 2012. We need not recount any of the details of the October 25, 2012 Order on Remand, nor of the June 18, 2013 Decision and Remand Order, beyond recounting what the CRB ordered in that Decision and Remand Order. The CRB wrote as follows:

In the [prior] Decision and Remand Order, the CRB had specifically noted that “In response to the ALJ’s questions [at the formal hearing] concerning which exhibits in her package support her claim that there has been a change in conditions, Ms. Taylor

identifies CE 14, 15 (HT 37), 16 (HT 38), a fiber tracking test, which is CE 15 (HT 40; HT 56 - 58), and CE 13, a report of unknown date by a Dr. Bracharon. At HT 53 - 54, Ms. Taylor appears to be suggesting that Dr. Harb's reports from the prior hearing are in some manner different from his newer reports."

In these passages, the CRB identified numerous specific exhibits that Ms. Taylor had pointed to as demonstrating a change in her condition meeting the Snipes standard. The ALJ only addressed one of them, CE 13. We find no error in her dismissing CE 13 as being inadequate to meet the Snipes burden.

The ALJ found the claimant's evidence was insufficient because the documents "consisted primarily of documents that preceded the August 6, 2010 Compensation Order" or because they "merely reasserted medical conclusions that were previously rejected. None of the other three exhibits that the CRB instructed the ALJ to analyze (CE 14, 15 and 16) were preceded the August 6, 2010 CO. It may well be that the other documents "merely reassert [...] the medical reports and conclusions previously rejected". However, their contents are not described or discussed and are not correlated in any fashion to any previously considered and rejected evidence. While it is well settled that there is no requirement for an ALJ to inventory the evidence in a case, there is a requirement to acknowledge and address evidence that is presented in direct support of or in opposition to a claim. See, *Kyle v. Safeway Stores, Inc.*, CRB No. 12-117, AHD No. 12-116, OWC No. 685101 (October 9, 2012), *Green v. Palomar Hotel*, CRB No. 11-065, AHD No. 10-582, OWC Nos. 673571 and 673273 (November 10, 2011).

Accordingly, the ALJ failed to completely carry out the directive of the CRB to address the specific evidentiary submissions in anything other than conclusory terms. Accordingly, we must again remand the matter so as to permit the ALJ to review, identify and discuss in specific terms what these remaining exhibits contain, and how they are mere reassertions as opposed to new findings.

As before therefore, one can not tell from the Order on Remand why the ALJ ruled as she did, because there is nothing therein that explains her decision in anything other than conclusory terms for any of the remaining evidentiary submissions upon which Ms. Saunders relies. So again, without an explanation we are unable to carry out our review obligation of determining whether the decision was supported by substantial evidence. We have no choice but to remand for further consideration and discussion from the ALJ concerning the basis of her decision.

CONCLUSION

The Order on Remand of October 25, 2012 dismissing the Application for Formal Hearing insufficiently complete to permit review for legal sufficiency.

ORDER

The Order on Remand is vacated, and the matter is remanded for further consideration in a manner consistent with the foregoing Decision and Remand Order.

Decision and Remand Order, *Taylor v. Verizon*, CRB No. 12-184 (June 18, 2013).

On June 24, 2013, Ms. Taylor filed a “Motion for Reconsideration of the Compensation Review Board’s Decision and Remand Order of June 18, 2013”.¹ After setting forth a number of case citations, statutory references, and statements concerning numerous legal standards governing the application and interpretation of the Act, the Motion concludes as follows:

For the foregoing reasons the Petitioner’s Motion for Reconsideration should be granted and the dismissal of [the ALJ’s] Order on Remand of October 25, 2012 in pursuant [sic] to Chapter 2, 7 DCMR Sec 266.2 and 267.1(b) should be reversed, vacated and remanded to another Judge if permit granting [sic] Ms. Taylor’s hearing seeking modification of a previous order of Judge Joan E. Knight’s Compensation Order of August 6, 2010. Ms. Taylor prefers a judge who can make a reasonable decisive inference on the evidence presented in the hearing.

Motion for Reconsideration, page 5.

In the previous decision, the CRB held that the ALJ again erred by not considering certain evidence that Ms. Taylor presented. The CRB remanded the matter so that the ALJ could consider the evidence and determine whether Ms. Taylor’s evidence presents a change in condition sufficient to permit a hearing. The Motion for Reconsideration identifies no specific error or irregularity in the original Remand Order. Rather, it adds an additional request to her prayer for relief, that being reassignment of the matter to a different ALJ on remand. The CRB has no legal authority to consider such requests, and does not make assignments of ALJs.

The Motion for Reconsideration is denied.

FOR THE COMPENSATION REVIEW BOARD:

JEFFREY P. RUSSELL
Administrative Appeals Judge

July 2, 2013

DATE

¹ Ms. Taylor submitted a substitute page 4 to her Motion via e-mail on June 25, 2013, and a hard copy the following day. While CRB regulations do not permit electronic filings, we have reviewed and considered the contents of the substituted page 4 and have concluded that the substituted page 4 does not effect the outcome of this decision.