

<sup>1</sup> The Board's *Rules of Procedure* require that an appeal be filed within one year of the date of issuance of the Office's final decision.

### **FACTUAL HISTORY**

On April 26, 2004 appellant, then a 46-year-old mail processing clerk, filed a claim for compensation for carpal tunnel syndrome that she attributed to the repetitive nature of her work. She submitted a detailed description of the employment factors she believed were responsible for her condition. In a January 8, 2004 report, Dr. George Wang, her attending neurologist, stated that nerve conduction studies that day were consistent with a moderate carpal tunnel syndrome on the left.

In a May 4, 2004 letter, the Office advised appellant that it needed, within 30 days, a comprehensive medical report from her treating physician with an opinion with medical reasons on the cause of her condition. In a May 20, 2004 letter, appellant stated that she needed more time to submit the requested medical report, as she could not obtain an appointment with a hand surgeon until July 1, 2004. By letter dated June 1, 2004, the Office granted appellant an extension until July 9, 2004 to submit the requested medical evidence. In a July 2, 2004 letter, appellant stated that she needed more time to get a medical report from Dr. John R.P. Tesser, a Board-certified rheumatologist. She submitted two brief notes from the physician, one prescribing x-rays of her hands, and the other referring her for an evaluation of her wrist and prescribing a splint.

By decision dated August 2, 2004, the Office denied appellant's claim on the basis that the medical evidence did not establish that the claimed condition resulted from accepted employment factors.

By letter dated July 13, 2005, appellant requested reconsideration, stating that she was in the process of consulting with an occupational therapist and a hand surgeon, that she had scheduled an appointment with the hand surgeon on July 25, 2005, and that she needed more time to submit further medical evidence.

By decision dated August 3, 2005, the Office found that appellant's request for reconsideration was not sufficient to warrant review of the merits of her case.

### **LEGAL PRECEDENT**

Section 8128(a) of the Federal Employees' Compensation Act vests the Office with discretionary authority to determine whether it will review an award for or against compensation:

"The Secretary of Labor may review an award for or against payment of compensation at any time on his own motion or on application. The Secretary, in accordance with the facts found on review may --

- (1) end, decrease, or increase the compensation awarded; or
- (2) award compensation previously refused or discontinued."

Under 20 C.F.R. § 10.606(b)(2), 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 submitting relevant and pertinent new evidence not previously considered by the Office. Section 10.608(b) provides that when an application for review of the merits of a claim does not meet at least one of these three requirements the Office will deny the application for review without reviewing the merits of the claim.

### **ANALYSIS**

In an August 2, 2004 merit decision, the Office found that the medical evidence did not establish that appellant's claimed condition of carpal tunnel syndrome was causally related to accepted factors of her employment. Evidence that would be relevant and pertinent and thus require the Office to reopen the case for a merit review would be medical evidence addressing how this condition was causally related to accepted factors of her employment.<sup>2</sup> Appellant has not submitted such evidence. The two brief notes she submitted on reconsideration from Dr. Tesser do not address the issue of causal relation and are not sufficient to require the Office to reopen the case for further review of the merits of appellant's claim.<sup>3</sup>

In her July 13, 2005 request for reconsideration, appellant stated that she was in the process of obtaining further medical evidence but needed more time to do so. A claimant may not extend the one-year time limit for filing a request for reconsideration by making such a request and subsequently (after the one year has expired) submitting the required new evidence or legal argument.<sup>4</sup> Appellant's request for more time to submit medical evidence is not a relevant legal argument not previously considered by the Office. Appellant had almost 15 months from May 4, 2004, the date the Office advised her of the need to submit a medical report addressing causal relationship, but still had not submitted such a report by the date of the Office's August 3, 2005 decision. Insofar as her contention constitutes an argument that the Office should have given her more time to submit medical evidence, this argument does not show that the Office erroneously applied or interpreted a specific point of law.

### **CONCLUSION**

The Office properly refused to reopen appellant's case for further review of the merits of her claim.

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<sup>2</sup> On appeal, appellant submitted a July 25, 2005 medical report that addresses causal relation. However, the Board's review is limited by 20 C.F.R. § 501.2(c) to the evidence in the case record which was before the Office at the time of its final decision. For this reason, the Board cannot consider the July 25, 2005 report.

<sup>3</sup> Evidence that does not address the particular issue involved does not constitute a basis for reopening a case. *Edward Matthew Diekemper*, 31 ECAB 224 (1979).

<sup>4</sup> See *John B. Montoya*, 43 ECAB 1148 (1992) (the Board found that the request for reconsideration was filed within one year but relevant new medical evidence was not, making the request untimely).

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 3, 2005 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 17, 2006  
Washington, DC

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

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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