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V.P., Appellant)	
)	
and)	Docket No. 06-1272
)	Issued: January 4, 2007
U.S. POSTAL SERVICE, POST OFFICE,)	
Pittsburgh, PA, Employer)	
)	

Case Submitted on the Record

Before:
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

On May 8, 2006 appellant filed a timely appeal of the May 11, 2005 nonmerit decision of the Office of Workers' Compensation Programs. The most recent merit decision in the case is dated March 1, 2004. Because appellant filed his appeal more than a year after the last merit decision, pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d), the Board does not have jurisdiction over the merits of the claim.

The issue is whether the Office properly denied further merit review of appellant's claim pursuant to 5 U.S.C. § 8128(a).

This case has been before the Board on two prior occasions.¹ Appellant, a 48-year-old former letter carrier, sustained an employment-related traumatic injury on August 6, 1992, which

¹ Docket Nos. 02-809 and 03-2014.

the Office accepted for aggravation of lumbar sprain and lumbar intervertebral disc disorder (L5-S1) with myelopathy. In a March 1, 2004 decision, the Board affirmed the Office's denial of appellant's claimed recurrence of disability beginning on or about December 15, 1999. Appellant failed to establish that his recurrence was causally related to his accepted employment injury. The facts of the case as set forth in the Board's March 1, 2004 decision are incorporated herein by reference.²

On January 13, 2005 appellant requested reconsideration before the Office. Appellant submitted a March 30, 2004 letter from Dr. Nita Rai-Gohel, a Board-certified internist. She indicated that she had discharged appellant to limited light duty for the period February 1 through April 1, 2000. The only noted limitation was a 10-pound lifting restriction. Appellant also submitted a February 23, 2000 letter from the employing establishment that indicated that he would be removed for cause effective March 31, 2000. The stated reason for the proposed removal was appellant's failure to meet attendance requirements. By decision dated May 11, 2005, the Office denied appellant's request for reconsideration.

LEGAL PRECEDENT

Under section 8128(a) of the Federal Employees' Compensation Act, the Office has the discretion to reopen a case for review on the merits.³ Section 10.606(b)(2) of Title 20 of the Code of Federal Regulations provides that the application for reconsideration, including all supporting documents, must set forth arguments and contain evidence that either: (i) shows that the Office erroneously applied or interpreted a specific point of law; (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 Office.⁴ Section 10.608(b) provides that, when an application for reconsideration does not meet at least one of the three requirements enumerated under section 10.606(b)(2), the Office will deny the application for reconsideration without reopening the case for a review on the merits.⁵

ANALYSIS

Appellant's January 13, 2005 request for reconsideration neither alleged nor demonstrated that the Office erroneously applied or interpreted a specific point of law. Additionally, he did not advance a relevant legal argument not previously considered by the Office. Consequently, appellant is not entitled to a review of the merits of his claim based on the first and second above-noted requirements under section 10.606(b)(2).⁶

² *Vincent Parker*, Docket No. 03-2014 (issued March 1, 2004).

³ 5 U.S.C. § 8128(a).

⁴ 20 C.F.R. § 10.606(b)(2) (1999).

⁵ 20 C.F.R. § 10.608(b) (1999).

⁶ 20 C.F.R. § 10.606(b)(2)(i) and (ii) (1999).

Appellant also failed to satisfy the third requirement under section 10.606(b)(2). He did not submit any relevant and pertinent new evidence with his January 13, 2005 request for reconsideration. The Office denied the recurrence claim based on appellant's failure to establish that his disability was causally related to the August 6, 1992 employment injury, and the Board affirmed the Office's basis for denial. Therefore, any evidence submitted on reconsideration must not only be new, but also relevant and pertinent to the issue of causal relationship. The employing establishment's February 23, 2000 notice of removal is not "new evidence not previously considered" by the Office.⁷ The record includes a copy of the same letter, which the Office originally received on August 7, 2000. Submitting additional evidence that repeats or duplicates information already in the record does not constitute a basis for reopening a claim.⁸ Dr. Rai-Gohel's March 30, 2004 report, although new evidence, is not pertinent to the issue on reconsideration. This report merely addresses the physical limitations Dr. Rai-Gohel imposed when she released appellant to return to work effective February 1, 2000. It does not address the relevant issue of causal relationship. As there was no relevant and pertinent new evidence for the Office to consider, appellant is not entitled to a review of the merits of his claim based on the third requirement under section 10.606(b)(2).⁹ Because appellant was not entitled to a review of the merits of his claim pursuant to any of the three requirements under section 10.606(b)(2), the Office properly denied the January 13, 2005 request for reconsideration.

CONCLUSION

The Board finds that the Office properly denied appellant's request for a review of the merits of his claim.

⁷ 20 C.F.R. § 10.606(b)(2)(iii) (1999).

⁸ *James W. Scott*, 55 ECAB 606, 608 n.4 (2004).

⁹ 20 C.F.R. § 10.606(b)(2)(iii) (1999).

ORDER

IT IS HEREBY ORDERED THAT the May 11, 2005 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 4, 2007
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

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