

federal employment. She first became aware of her condition in March 2005 and first attributed her carpal tunnel syndrome to her employment on June 22, 2006.

In a letter dated March 26, 2007, the Office requested additional factual and medical evidence in support of appellant's claim. It allowed 30 days for a response. Appellant submitted a May 15, 2006 disability certificate from Dr. James E. Beale, Jr., a Board-certified orthopedic surgeon, who diagnosed tendinitis of the right wrist. On June 22 and July 12, 2006 Dr. Beale diagnosed carpal tunnel syndrome of the right wrist. He also completed a form report on September 8, 2006 diagnosing bilateral carpal tunnel syndrome and indicating with a checkmark "yes" that the condition was due to appellant's employment. In a report dated December 5, 2006, Dr. Beale stated that appellant had discomfort in both wrists and hands, which she associated with work activities. He diagnosed carpal tunnel syndrome and appellant underwent a right carpal tunnel release on September 28, 2006. In a report dated April 18, 2007, Dr. Beale stated that appellant underwent surgery to her right hand for release of stenosing tenosynovitis on February 27, 2007.

By decision dated May 7, 2007, the Office denied appellant's claim finding that she failed to submit a factual statement describing the employment factors which she felt caused or contributed to her diagnosed condition of bilateral carpal tunnel syndrome. It also found that the medical evidence was not sufficient to meet appellant's burden of proof.

Appellant submitted a narrative statement describing her employment duties as lifting up to 70 pounds, reaching, grabbing, pushing, pulling, loading trucks and lifting heavy sacks of mail. She stated that her job functions required grasping mail for 8 to 10 hours a day.

On March 28, 2008 the Office received an undated and unsigned appeal form with a checkmark beside "request for reconsideration, which contained appellant's claim number. In an October 31, 2007 report, Dr. Beale listed her employment activities. He attributed her condition to her employment duties. Dr. Douglas W. Lee, a neurologist, performed an electromyographic examination on August 15, 2006, which demonstrated moderately advanced bilateral carpal tunnel syndrome greater on the right with thenar muscle denervation on the right.

In a letter dated June 4, 2008, the Office informed appellant that, without a signature and date on the request for reconsideration, the appeal form could not be processed. Appellant completed a request for reconsideration on June 6, 2008. By decision dated June 24, 2008, the Office denied her request for reconsideration on the grounds that it was untimely filed and failed to establish clear evidence of error on the part of the Office.

LEGAL PRECEDENT

A request for reconsideration must be in writing and set forth argument and contain evidence showing that the Office erroneously applied or interpreted a specific point of law, or advance a relevant legal argument not previously considered by the Office or contain relevant and pertinent new evidence not previously considered by the Office.¹ No special form is required to request reconsideration, but the request must identify the decision for which

¹ 20 C.F.R. § 10.606.

reconsideration is being requested and be accompanied by relevant and pertinent new evidence or argument not considered previously.²

ANALYSIS

The Board finds that this case is not in posture for a decision. Appellant submitted a timely request for reconsideration, which was in writing and identified her claim number. This request was received by the Office on March 28, 2008 within one year of the last merit decision dated May 7, 2007. This request was accompanied by new medical evidence not previously considered by the Office. Neither the Office's regulations nor the Office's procedure manual require that a request for reconsideration must be signed and dated by appellant as stated by the Office in the June 4, 2008 letter. The Office's procedure manual instead provides: "If the contested decision or issue cannot be reasonably determined from the claimant's request, the [claims examiner] should return a copy of the application to the claimant for clarification and inform the claimant that [the Office] will take no further action on the request unless clarification is submitted."³ In this case, as there was only one decision in the record no additional clarification from appellant was necessary.

Appellant's March 28, 2008 request for reconsideration met the standards as detailed in the Office's regulations and procedure manual. The Board finds that the Office should have addressed appellant's March 28, 2008 request for reconsideration and evaluated the evidence submitted in accordance with section 10.606 of the Office's regulations.⁴ On remand, the Office should review the evidence submitted and issue an appropriate decision.

CONCLUSION

The Board finds that the Office improperly dismissed appellant's timely March 28, 2008 request for reconsideration and that the case must be remanded for a review of the evidence submitted with this request and an appropriate decision.

² Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.2 (January 2004).

³ *Id.* at Chapter 2.1602.3 (January 2004).

⁴ 20 C.F.R. § 10.606(b).

ORDER

IT IS HEREBY ORDERED THAT the June 24, 2008 decision of the Office of Workers' Compensation Programs is set aside and the case remanded for further development consistent with this decision of the Board.

Issued: January 22, 2010
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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