

FACTUAL HISTORY

Appellant, a 36-year-old rural carrier, filed a Form CA-1 claim for benefits on January 12, 2013, alleging that she became nauseous and experienced stomach pain after handling a leaky package.

Appellant submitted several medical reports which indicated that she was treated for nausea and stomach pain due to alleged chemical exposure.

By letter dated February 5, 2013, OWCP informed appellant that it required additional medical evidence in support of her claim. It requested that appellant submit the additional evidence within 30 days.

In a January 12, 2013 report, received by OWCP on February 26, 2013, Dr. Paul Fortier, a specialist in internal medicine, stated that appellant had complained of chemical exposure, abdominal pain and nausea. Appellant asserted that she was exposed to a car cleaner which got on her hands at the employing establishment earlier that morning. Dr. Fortier stated that on examination appellant had no dizziness, weakness, headaches, bad odor, burned skin, fever, fatigue, eye soreness, cough, chest pain, vomiting, diarrhea or shortness of breath.

In a January 14, 2013 report, received by OWCP on February 26, 2013, Dr. Fortier submitted a follow-up report in which he indicated that appellant's nausea and vomiting had resolved.

By decision dated March 8, 2013, OWCP denied the claim, finding that appellant failed to submit medical evidence sufficient to establish that she sustained an injury in the performance of duty on January 12, 2013.

On September 17, 2013 appellant requested reconsideration. She submitted medical notes and summary form reports from January 12 to 14, 2013, from the Lee Convenient Care Center, including notes from Dr. Fortier, which indicated that she had been examined on those dates, which noted appellant's chemical exposure and nausea, but did not provide any diagnosis or medical opinion that she sustained a condition or disability due to a chemical exposure on January 12, 2013.

By decision dated September 20, 2013, OWCP denied appellant's application for review on the grounds that it neither raised substantive legal questions nor included new and relevant evidence sufficient to require OWCP to review its prior decision.

LEGAL PRECEDENT

Under 20 C.F.R. § 10.606(b), a claimant may obtain review of the merits of his or her claim by showing that OWCP erroneously applied or interpreted a specific point of law; by advancing a relevant legal argument not considered by OWCP; or by submitting relevant and pertinent evidence not previously considered by OWCP.³ Evidence that repeats or duplicates

³ 20 C.F.R. § 10.606(b)(1); *see generally* 5 U.S.C. § 8128(a).

evidence already in the case record has no evidentiary value and does not constitute a basis for reopening a case.⁴

ANALYSIS

In the present case, appellant has not shown that OWCP erroneously applied or interpreted a specific point of law; nor has she advanced a relevant legal argument not previously considered by OWCP. She submitted medical notes from the Critical Care Center and summary form reports from Dr. Fortier which did not contain a diagnosis or a medical opinion that appellant had a condition or disability causally related to her alleged chemical exposure on January 12, 2013. The Board has held that the submission of evidence which does not address the particular issue involved in the case does not constitute a basis for reopening the claim.⁵ The evidence appellant submitted in connection with her September 17, 2013 reconsideration request, however, is not pertinent to the issue on appeal; *i.e.*, whether she submitted medical evidence sufficient to establish that she sustained an injury due to work-related chemical exposure on January 12, 2013. The summary reports appellant submitted with her request are cumulative and repetitive of previous reports. Appellant's reconsideration request failed to show that OWCP erroneously applied or interpreted a point of law nor did it advance a point of law or fact not previously considered by OWCP. OWCP did not abuse its discretion in refusing to reopen appellant's claim for a review on the merits in its September 20, 2013 decision.

CONCLUSION

The Board finds that OWCP properly refused to reopen appellant's case for reconsideration on the merits of her claim under 5 U.S.C. § 8128(a).

⁴ *Howard A. Williams*, 45 ECAB 853 (1994).

⁵ *See David J. McDonald*, 50 ECAB 185 (1998).

ORDER

IT IS HEREBY ORDERED THAT the September 20, 2013 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: June 20, 2014
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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