

Appellant, a 54-year-old mechanical engineer, injured his neck and right shoulder on April 8, 1992 when he slipped on some liquid which was on the floor. He filed a claim for benefits on April 9, 1992, which the Office accepted for cervical sprain.

On November 22, 2004 appellant filed a Form CA-2a claim for benefits, alleging that he sustained a recurrence of disability on June 10, 2003 causally related to his accepted cervical strain condition.

By letter dated December 13, 2004, the Office requested that appellant submit additional factual and medical evidence in support of his claim.

Appellant submitted a January 7, 2005 report from Dr. Thomas H. Raetzsch, a Board-certified family practitioner, who related appellant's complaints of significant neck pain which kept him awake at night. Dr. Raetzsch advised that appellant needed to hold his neck in an awkward position and had difficulty turning his head side to side or up and down. He noted that appellant's neck pain radiated down his arms, bilaterally. Dr. Raetzsch diagnosed herniated nucleus pulposus at C2-3, C6-7 and C7-T1 by history with exacerbation and recommended that appellant undergo diagnostic testing, including x-ray and magnetic resonance imaging (MRI) scan.

By decision dated April 22, 2005, the Office denied appellant compensation for a recurrence of his accepted cervical strain condition. The Office found that appellant failed to submit medical evidence sufficient to establish that the claimed condition or disability was caused or aggravated by the accepted condition.

By letter dated April 10, 2006, appellant requested reconsideration of the April 22, 2005 Office decision. He submitted a May 16, 2006 report of a cervical MRI scan from Dr. Raetzsch. The report noted multilevel degenerative disc disease, fairly advanced; retrolisthesis and mild spinal stenosis at C3-4; and a large disc protrusion at C6-7. Dr. Raetzsch recommended an MRI scan of the thoracic spine. Appellant also submitted the following reports which he had submitted previously: a July 17, 1992 report from Dr. Gerald Q. Greenfield, Board-certified in orthopedic surgery, Dr. Raetzsch's January 7, 2005 report; a May 12, 1992 MRI scan report and a December 21, 1992 report from Dr. Daniel C. Valdez, Board-certified in orthopedic surgery.

By decision dated July 14, 2006, the Office 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 the Office 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 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 constituting relevant and pertinent new evidence not previously considered by the Office.¹ Evidence that repeats or duplicates evidence already in the case record has no evidentiary value and does not constitute a basis for reopening a case.²

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

² *Howard A. Williams*, 45 ECAB 853 (1994).

ANALYSIS

In the present case, appellant has not shown that the Office erroneously applied or interpreted a specific point of law; nor has he advanced a relevant legal argument not previously considered by the Office. The evidence appellant submitted is not pertinent to the issue on appeal. 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.³ Appellant has not submitted any new medical evidence which addresses the relevant issue of whether appellant's current condition was causally related to his accepted cervical condition. Dr. Raetzsch's May 16, 2006 cervical MRI scan report indicated findings of degenerative disc disease and noted some mild irregularities, but did not present any additional evidence pertaining to the relevant issue of whether appellant sustained a recurrence of disability as of June 10, 2003. The other medical reports appellant submitted were duplicative and repetitive of previous reports which were considered by the Office in prior decisions; three of these reports were from 1992, eleven years prior to the alleged recurrence of disability. Appellant's reconsideration request failed to show that the Office erroneously applied or interpreted a point of law nor did it advance a point of law or fact not previously considered by the Office. The Office did not abuse its discretion in refusing to reopen appellant's claim for a review on the merits.

CONCLUSION

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

³ See *David J. McDonald*, 50 ECAB 185 (1998).

ORDER

IT IS HEREBY ORDERED THAT the July 14, 2006 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: October 24, 2007
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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