

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On October 28, 1998 appellant, then a 45-year-old personnel clerk, filed an occupational disease claim alleging that she sustained carpal tunnel syndrome causally related to her federal duties. On January 26, 1999 OWCP accepted appellant's claim for bilateral carpal tunnel syndrome. It paid wage-loss compensation and medical benefits.

By decision dated October 8, 2009, OWCP suspended appellant's benefits effective October 25, 2009 as she failed to complete the required Form EN1032 and Form SSA-581. It informed her that, if she completed and returned the forms, her compensation benefits would be restored retroactively to the date they were suspended.

On December 29, 2009 appellant requested reconsideration. In an accompanying letter, she noted that there had been a delay since the medical evidence disclosed permanent injuries. Appellant continued personal home therapy, but sought to resume treatment with her former medical association. She noted that she would be forwarding further documents. No further evidence was submitted.

In a March 19, 2010 decision, OWCP denied appellant's request for reconsideration without conducting a merit review. It noted that although appellant did not specify which decision she was appealing, the last merit decision was issued October 8, 2009. OWCP found that appellant's letter did not raise any substantive legal questions or include new and relevant evidence and was not sufficient to warrant review of the October 8, 2009 decision.

LEGAL PRECEDENT

To require OWCP to reopen a case for merit review under section 8128(a) of FECA,² OWCP's regulations provide that the evidence or argument submitted by a claimant must: (1) show that OWCP erroneously applied or interpreted a specific point of law; (2) advance a relevant legal argument not previously considered by OWCP; or (3) constitute relevant and pertinent new evidence not previously considered by OWCP.³ To be entitled to a merit review of OWCP's decision denying or terminating a benefit, a claimant also must file his or her application for review within one year of the date of that decision.⁴ When a claimant fails to meet one of the above standards, OWCP will deny the application for reconsideration without reopening the case for review on the merits.⁵

² 5 U.S.C. §§ 8101-8193. Under section 8128 of FECA, "[t]he Secretary of Labor may review an award for or against payment of compensation at any time on her own motion or on application." 5 U.S.C. § 8128(a).

³ 20 C.F.R. § 10.606(b)(2).

⁴ *Id.* at § 10.607(a).

⁵ *Id.* at § 10.608(b).

ANALYSIS

The only issue is whether OWCP properly denied appellant's reconsideration request.

Appellant did not make any argument that OWCP erroneously applied or interpreted a specific point of law. She did not advance any relevant legal argument not previously considered by OWCP. Furthermore, appellant did not submit any new or relevant evidence with her request for reconsideration. As she has not met any of the requirements for reopening her case for merit review under section 8128(a) of FECA, OWCP properly denied reconsideration of her case on the merits.⁶

CONCLUSION

The Board finds that OWCP properly denied appellant's request for reconsideration without further merit review of the claim under 5 U.S.C. § 8128(a).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated March 19, 2010 is affirmed.

Issued: July 7, 2011
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

⁶ The Board notes that OWCP informed appellant in its October 8, 2009 decision that, if she submitted completed copies of the forms that were enclosed with that decision, her benefits would be restored retroactively to the date they were suspended.