



Dr. Rebecca Gliksman, a Board-certified internist, related appellant's chief complaint of right heel pain. Appellant noticed it was hurting in October 2010, and it did not resolve. Dr. Gliksman observed that appellant had the same route and walked five to eight miles a day and went up and down stairs. After describing her findings on physical examination, she diagnosed tendinitis. Dr. Gliksman recommended an x-ray to rule out a bone spur.

On January 27, 2011 OWCP denied appellant's claim for workers' compensation benefits. It found that Dr. Gliksman's report did not explain whether appellant's federal employment caused or aggravated the diagnosed tendinitis. OWCP noted that the mere fact that a condition manifests itself or is worsened during a period of employment did not raise an inference of causal relationship between the two. Such a relationship must be shown by rationalized medical evidence of causation.

Appellant requested reconsideration and resubmitted Dr. Gliksman's report.

In a decision dated March 10, 2011, OWCP denied appellant's request for reconsideration. It found that her request did not warrant a review of its prior decision because she submitted evidence that was previously considered.

On appeal, appellant argues that a magnetic resonance imaging (MRI) scan obtained in May 2011 demonstrated pathology.

### **LEGAL PRECEDENT**

OWCP may review an award for or against payment of compensation at any time on its own motion or upon application.<sup>2</sup> An employee (or representative) seeking reconsideration should send the request for reconsideration to the address as instructed by OWCP in the final decision. The request for reconsideration, including all supporting documents, must be in writing and must set forth arguments and contain evidence that either: (1) shows that OWCP erroneously applied or interpreted a specific point of law; (2) advances a relevant legal argument not previously considered by OWCP; or (3) constitutes relevant and pertinent new evidence not previously considered by OWCP.<sup>3</sup>

A request for reconsideration must be sent within one year of the date of OWCP's decision for which review is sought.<sup>4</sup> A timely request for reconsideration may be granted if OWCP determines that the employee has presented evidence or argument that meets at least one of these standards. If reconsideration is granted, the case is reopened and the case is reviewed on its merits. Where the request is timely but fails to meet at least one of these standards, OWCP will deny the request for reconsideration without reopening the case for a review on the merits.<sup>5</sup>

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<sup>2</sup> 5 U.S.C. § 8128(a).

<sup>3</sup> 20 C.F.R. § 10.606.

<sup>4</sup> *Id.* at § 10.607(a).

<sup>5</sup> *Id.* at § 10.608.

Evidence that repeats or duplicates evidence already in the record has no evidentiary value and constitutes no basis for reopening a case.<sup>6</sup>

### **ANALYSIS**

Appellant timely submitted a request for reconsideration of OWCP's January 27, 2011 decision denying her occupational disease claim. The question to be resolved on this appeal is whether her request met one of the three standards for obtaining a merit review of her case.

Appellant's request for reconsideration did not show that OWCP erroneously applied or interpreted a specific point of law. She did not advance a new and relevant legal argument. Instead, appellant resubmitted Dr. Gliksman's report. A claimant may be entitled to a merit review by submitting relevant and pertinent new evidence, but this evidence was not new. OWCP previously reviewed this report and found it insufficient to establish the element of causal relationship because Dr. Gliksman did not explain whether appellant's federal employment caused or aggravated the diagnosed tendinitis. As noted earlier, evidence that repeats or duplicates evidence already in the record has no evidentiary value and constitutes no basis for reopening a case.

Accordingly, the Board finds that appellant did not meet any of the requirements for reopening her case. Appellant did not show that OWCP erroneously applied or interpreted a specific point of law, did not advance a relevant legal argument not previously considered by OWCP, and did not submit relevant and pertinent new evidence not previously considered by OWCP. Pursuant to 20 C.F.R. § 10.608, OWCP properly denied a merit review of her case.

Appellant argues that an MRI scan obtained in May 2011 demonstrated pathology, but she did not submit this evidence to support her request for reconsideration. Moreover, while such an imaging study would be relevant to identifying the nature of appellant's right heel condition, it would not be relevant to the issue raised by OWCP's January 27, 2011 denial of benefits, namely, whether the specific duties of appellant's federal employment caused or aggravated the diagnosed right heel condition. That is a matter of medical opinion and must be addressed by Dr. Gliksman and supported with sound medical reasoning.

### **CONCLUSION**

The Board finds that OWCP properly denied appellant's request for reconsideration.

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<sup>6</sup> *Eugene F. Butler*, 36 ECAB 393 (1984); *Bruce E. Martin*, 35 ECAB 1090 (1984).

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 10, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 3, 2012  
Washington, DC

Alec J. Koromilas, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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