

between his original injury of January 5, 1984 and his alleged recurrence of disability of September 19, 1998.¹ The facts and procedural history as set forth in the Board's October 3, 2001 decision are herein incorporated by reference.

Following the Board's decision, appellant's attorney requested reconsideration and submitted a deposition, reports and treatment notes from Dr. Philip S. Rubin, a Board-certified family practitioner and appellant's treating physician. By decision dated July 30, 2002, the Office denied modification of its denial of recurrence of disability.

In a February 13, 2003 decision,² the Board found that appellant failed to submit sufficient medical evidence to establish that he sustained a recurrence of disability causally related to his January 5, 1984 employment injury. The complete facts of this case are set forth in the Board's February 13, 2003 decision and are herein incorporated by reference.

Following the Board's decision, appellant's attorney requested reconsideration by letter dated February 6, 2004. By decision dated February 24, 2004, the Office denied appellant compensation for a recurrence of his accepted January 5, 1984 employment injury. The Office found that appellant failed to submit medical evidence sufficient to establish the claimed condition or disability as of March 22, 2004 which was caused or aggravated by the accepted conditions.

By letter dated May 20, 2005, appellant's attorney requested reconsideration of the February 24, 2004 Office decision. Counsel stated that he had previously requested reconsideration of the February 24, 2004 Office decision by letter dated February 15, 2005 and had submitted a follow-up letter inquiring as to the status of this request, but had yet to receive a response.

By decision dated June 3, 2005, 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 submitting relevant and pertinent evidence not previously considered by the Office.³ 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.⁴

¹ Docket No. 01-224 (issued October 3, 2001).

² Docket No. 02-2389 (issued February 13, 2003).

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

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

ANALYSIS

In the present case, the record contains copies of a request for reconsideration of the Office's February 24, 2004 denial of his claim for a recurrence of disability, dated February 15, 2005; there is a notation at the bottom of the request which indicates the document was received on February 18, 2005. This request from appellant's attorney listed 10 medical reports purporting to establish a recurrence of appellant's accepted neck and right shoulder injuries, which, he stated, were enclosed with the request. These reports were also contained in the instant record, as the case file contains copies of these records bearing the "received" notation at the bottom of the page, indicating they were received on February 18, 2005. The Office, however, stated in its June 3, 2005 nonmerit denial of reconsideration that it had not received either the February 15, 2005 request for reconsideration or the April 25, 2005 follow-up letter. The Office found that it had not received any evidence, and it therefore denied merit review. This finding was not correct, however, as the documents referenced by appellant's attorney were clearly indicated as "received" prior to the Office's issuance of the June 3, 2005 decision.

Accordingly, for the reasons stated above, appellant has submitted evidence not considered by the Office. The June 3, 2005 Office decision must be set aside and the case remanded to the Office for consideration of all evidence which was properly submitted prior to June 3, 2005.⁵

CONCLUSION

The Board finds that the refusal of the Office to reopen appellant's case for further consideration of the merits of his claim constituted an abuse of discretion.

⁵ *William A. Couch*, 41 ECAB 548 (1990).

ORDER

IT IS HEREBY ORDERED THAT the June 3, 2005 decision of the Office of Workers' Compensation Programs be reversed. The case is remanded to the Office for review of the merits of appellant's claim and any other proceedings deemed necessary by the Office to be followed by an appropriate decision.

Issued: December 16, 2005
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Willie T.C. Thomas, Alternate Judge
Employees' Compensation Appeals Board

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