United States Department of Labor
Employees' Compensation Appeals Board

R.V., Appellant	)	
and	)	**Docket No. 06-1016**
	)	**Issued: August 7, 2006**
U.S. POSTAL SERVICE, POST OFFICE, Oakland, CA, Employer	)	

Appearances:
R.V., pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge

JURISDICTION

On March 27, 2006 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decisions dated November 3, 2005 and January 12 and March 20, 2006 denying her claims for recurrence of disability and the nonmerit decision dated March 30, 2006 denying her request for reconsideration. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUES

The issues are: (1) whether appellant has established that she sustained a recurrence of disability from April 30 through July 13, 2005 and beginning September 19, 2005, causally related to her accepted March 2004 employment injury; and (2) whether the Office properly refused to reopen appellant's case for further review of the merits of her claim.

FACTUAL HISTORY

On March 24, 2004 appellant, then a 29-year-old city carrier, filed an occupational disease claim, alleging that she injured her left elbow and wrist due to repetitive employment

activities. Her claim was accepted for left elbow/forearm strain, left wrist tendinitis and left shoulder strain.[1]

In an April 13, 2005 report, Dr. Douglas J. Abeles, a Board-certified orthopedic surgeon, opined that appellant was capable of working full duty without restrictions. He found it clear from her dramatic reactions that her subjective complaints outweighed any objective findings. Dr. Abeles' examination of appellant reflected full range of motion of the shoulder; no evidence of impingement; no sign of pain with palpation; and normal strength in external rotation, internal rotation or abduction. He found her neurovascular status intact in the upper extremity. Dr. Abeles noted that a magnetic resonance imaging (MRI) scan showed evidence of mild findings (*i.e.*, some signal changes and tendonopathy in the supraspinatus tendon). However, he stated that these findings were incidental and did not cause any significant pathology related to her accepted injury. Dr. Abeles also noted moderate degenerative disease in the acromioclavicular joint, which was not painful and a ganglion cyst in the deltoid muscle, which was not of any clinical significance.

In an unsigned report dated April 29, 2005, appellant's treating physician, Dr. Ravi Sham Panjabi, a treating physician,[2] released appellant to work effective April 30, 2005, provided that she be restricted from lifting with her left upper extremity below shoulder level in excess of 30 pounds and above shoulder level in excess of 10 pounds for up to 2 hours per day. He recommended that she take 10-minute breaks every 2 hours; that she avoid repeated bending and stooping; and that mail delivery be restricted to 2 hours per day. Dr. Panjabi noted that appellant had chronic neck and back pain under a separate claim.

On April 30, 2005 appellant returned to limited duty. On May 20, 2005 appellant accepted a limited-duty job as a reserve letter carrier, which conformed to the restrictions outlined by her physician.

Appellant submitted numerous unsigned reports from Dr. Panjabi. On May 17, 2005 Dr. Panjabi indicated that appellant had right shoulder and low back pain of unknown etiology, with pain exaggeration. On May 27, 2005 he stated that appellant complained of worsening left shoulder and low back pain. He noted that she had multiple tender points to palpation; negative MRI scan results; negative straight leg raise bilaterally while sitting, which was inconsistent with a positive straight leg raise bilaterally while supine; and "apparent overation of pain when touched." Dr. Panjabi observed that appellant was lying flat on the waiting room floor with her eyes closed while waiting to be called into the examination room and that when she was called, she "comfortably got up off the floor and then walked back to the exam[ination] room."

Appellant submitted an attending physician's report dated August 15, 2005 from Dr. Panjabi, who diagnosed left shoulder pain caused by employment. When asked to identify

[1] Appellant filed previous claims, including File No. 132015364, which was accepted for low back strain and File No. 132042901, which was accepted for lumbosacral, thoracic and cervical strain.

[2] Dr. Panjabi's credentials cannot be verified. Dr. Panjabi, MB, of Palm Harbor, FL is Board-certified in anesthesiology, with a subspecialty in pain management. However, appellant's physician practices in Castro Valley, CA and the record does not reflect that he also practices in the state of Florida.

any period of total disability, Dr. Panjabi provided no information. He noted that appellant was partially disabled from February 10, 2005 to February 10, 2006, having returned to light duty on April 30, 2005.

On September 8, 2005 appellant filed a claim for benefits for the period April 28 through August 3, 2005. The accompanying portion completed by the employing establishment reflected that appellant had taken leave without pay from April 30 through July 13, 2005.

On September 20, 2005 the Office notified appellant that the medical evidence submitted was insufficient to establish her claim for total disability from April 30 through July 13, 2005. The Office informed appellant that her claim for compensation represented a claim for recurrence of disability and advised her that she had 30 days to provide contemporaneous medical evidence with detailed medical findings and a reasoned medical opinion supporting her claim.

Appellant submitted an unsigned report dated September 12, 2005 from Dr. Panjabi, who provided diagnoses of left shoulder joint pain secondary to left shoulder strain and left rotator cuff tendinitis and cervical spondylosis. On examination, Dr. Panjabi found tenderness with spasm in the left trapezius muscle and left cervical paravertebral region, as well as the interscapular region on the left side. He noted that range of motion in the left shoulder was markedly restricted.

In an attending physician's report signed on September 19, 2005, Dr. Panjabi diagnosed right shoulder pain and myofascial pain syndrome. The form indicated that the period of total disability was from September 19 through October 3, 2005, when appellant would be permitted to return to work.

On September 28, 2005 appellant submitted a claim for disability for the period September 19 through October 3, 2005. The employing establishment controverted the claim, alleging that appellant had provided no medical rationale to support her disability.

On September 28, 2005 appellant filed a notice of recurrence of disability commencing September 19, 2005, indicating that she had stopped work on that date. Appellant alleged that her pain had worsened to the degree that she was unable to perform the duties of her job, which required her to exceed her restrictions.

On October 14, 2005 the Office notified appellant that the medical evidence submitted was insufficient to establish her claim for total disability commencing September 19, 2005. The Office informed appellant as to the evidence required to support her claim and advised her that she had 30 days to provide contemporaneous medical evidence with detailed medical findings and a reasoned medical opinion describing either a worsening of her condition or a change in her job duties, which caused her disability.

In an unsigned report dated October 3, 2005, Dr. Panjabi stated that an MRI scan report showed a C5-6 broad based disc bulge with the left paracentral likely extrusion superimposed with severe central stenosis, with narrowing of the canal diameter to 3.5 millimeter. Mild cord edema was also present at that level. Dr. Panjabi opined that because of the large disc herniation, appellant would not be able to return to work at that time. He stated that the pain from the

cervical spine was referred to the shoulder, which had been "confused as shoulder pain." Dr. Panjabi opined that appellant's neck pain and the current disc extrusion began at the same time as her shoulder injury and, as such, should be included with her shoulder claim. In an undated attending physician's report, he stated that appellant was partially disabled from October 17 through November 17, 2005.

On October 17, 2005 appellant submitted a Form CA-7 claim for benefits for the period October 4 through November 15, 2005. By letter dated October 21, 2005, the Office informed appellant that the information submitted was insufficient to establish that she was totally disabled from October 4 through November 15, 2005 and that she had provided no medical rationale as to how the diagnosed cervical condition was causally related to her accepted employment injury.

In an unsigned report dated October 17, 2005, Dr. Panjabi provided diagnoses of cervical spondylosis; right shoulder pain; myofascial pain syndrome, cervical spine and shoulder girdle; cervical herniated disc disease with cervical cord edema. He found on examination that the muscles on the left side of the neck were in spasm. Dr. Panjabi noted tenderness over that splexius capitis, the levator scapulae, as well as the trapezius muscles. An MRI scan revealed cord edema due to compression at C4, C5 and C6 levels. Dr. Panjabi stated that an electromyogram (EMG) and nerve conduction study showed cervical radiculopathy, mostly involving C4-6, right more than left, showing signs of irritation and active denervation at the cervical paraspinals, with no significant involvement of the peripheral nerves. The EMG also showed significant irritation of bilateral cervical paraspinal muscles at C4-6, with positive sharp waves and fibrillation. Dr. Panjabi reported that he had just been made aware that approximately a month before, appellant had sustained an injury in her home when some roofing or other material fell on her head and neck while she was in the bath tub. He stated: "Hence, I am unsure at this point whether the cervical injury that she has had with the cervical cord edema is secondary to her industrial injury or whether to her injury at home."

By decision dated November 3, 2005, the Office denied appellants claim for benefits from April 30 through July 13, 2005, finding that she had failed to establish that she was totally disabled during the period in question due to her accepted injury.

The Office referred appellant, along with the complete file and a statement of accepted facts, to Dr. Matthew E. Mitchell, a Board-certified orthopedic surgeon, for a second opinion examination. In a report dated November 8, 2005, Dr. Mitchell stated that he was unable to determine whether or not appellant had experienced a period of total disability subsequent to April 2005. He provided diagnoses of left carpal tunnel syndrome (CTS); left shoulder impingement/tendinitis; cervical strain; and lumbosacral strain. Dr. Mitchell's examination revealed normal range of motion of the cervical spine, with flexion of 50 degrees and extension of 60 degrees and lateral rotation of 80 degrees. Abduction and flexion of the shoulders was up to 110 degrees on the right and the left. Internal and external rotation was 80 degrees on the right and left. Extension and adduction was 40 percent bilaterally. Dr. Mitchell found normal range of motion in the hands and fingers, with pain in the fingers, but no numbness. Examination of the lumbar spine revealed flexion of 90 degrees, extension of 25 degrees and lateral bend of 25 degrees bilaterally. Motor strength was 5/5. Appellant had diminished sensation to light touch along the left lateral thigh. In the hips, Dr. Mitchell found flexion of 100 degrees, bilateral extension of 30 degrees, abduction of 35 degrees, adduction and internal

rotation of 25 degrees and external rotation of 35 degrees. He opined that appellant's lumbosacral strain was related to her October 2001 injury and that her left shoulder impingement, tendinitis and left CTS were related to her March 2004 injury. Dr. Mitchell indicated that appellant could work eight hours, with restrictions related to reaching above the shoulder and avoiding repetitive activities with the left wrist. He also recommended that she be restricted from lifting, pulling or pushing more than 15 pounds or squatting, kneeling, climbing, bending, stooping or standing more than four hours. Dr. Mitchell stated that the only objective residuals of appellant's March 2004 injury were CTS and left shoulder impingement. The Office asked him to clarify his report regarding specific periods of disability since April 2005 due to appellant's March 2004 injury. In a supplemental report dated December 21, 2005, Dr. Mitchell stated that appellant's cervical strain was related to her 2001 injury. He indicated that her left shoulder/hand condition was "also related by aggravation." Dr. Mitchell stated that it was unclear to him how much of the pain was related to the shoulder itself, as opposed to the cervical spine and that he believed that the etiology of the shoulder/hand condition was multifactorial. He noted that it was "somewhat difficult to determine whether there were specific periods of disability." Dr. Mitchell indicated that a period of total disability might be justified during the period September 1 through October 19, 2005, based on Dr. Panjabi's description of appellant's lumbar spine pain as "10/10." However, he was unable to ascertain with specificity the dates of any total disability.

In a work capacity evaluation dated November 7, 2005, Dr. Mitchell stated that appellant could work eight hours per day with restrictions, including walking, standing, bending and stooping for no more than four hours per day; reaching above the shoulder for no more than two hours per day; making repetitive movements of the wrist and elbow for no more than three hours per day; climbing, kneeling and squatting for no more than four hours per day; and pulling and pushing up to 15 pounds for no more than three hours per day.

Appellant submitted an undated narrative statement, indicating that when she returned to work on April 30, 2005 she was required to do repetitive tasks, such as casing mail routes for four to six hours per day and carrying a mailbag on her left shoulder, which caused her condition to worsen to the degree that she was unable to work. She submitted a statement from Dolores Martinez, a coworker, who indicated that during the spring and summer of 2005, she observed appellant casing multiple carrier routes daily. An unsigned note dated November 8, 2005 from Karen Manitsas, a physician's assistant, reflected that appellant was hospitalized for four days in a psychiatric institution for stress related to her job.

Appellant submitted an unsigned report dated September 1, 2005 from Ms. Manitsas, which provided a diagnosis of lumbar disc disorder, lumbar spondylosis and low back pain. In an unsigned report dated June 3, 2005, Dr. Panjabi indicated that appellant had tenderness bilaterally and restricted range of motion in the lumbosacral spine.

On January 10, 2006 appellant requested reconsideration of the Office's November 3, 2005 decision denying her claim for benefits for the period April 30 through July 13, 2005.

By decision dated January 12, 2006, the Office denied appellant's claim for recurrence of disability commencing September 19, 2005, finding that appellant had failed to establish any

specific period of total disability during the period in question. The Office stated that appellant's cervical condition was not accepted in this case and could not be used as a basis for disability.

Appellant submitted several unsigned reports from Dr. Panjabi. In a report dated September 12, 2005, Dr. Panjabi diagnosed left shoulder joint pain secondary to left shoulder strain and left rotator cuff tendinitis and cervical spondylosis. In an April 18, 2005 report, he released appellant to work with restrictions, based upon the opinion of Dr. Abeles. In a July 6, 2005 report, Dr. Panjabi indicated that appellant had reduced range of motion in the lumbosacral spine. Appellant also submitted a signed operative report dated February 3, 2004, reflecting that she had received facet joint injections.

On January 22, 2006 appellant requested reconsideration of the Office's January 12, 2006 decision denying her claim for recurrence of disability commencing September 19, 2005.

Appellant submitted unsigned reports from Ms. Manitsas. On April 11, 2005 she stated that appellant had limited range of motion of the lumbosacral spine secondary to pain and left-sided numbness on L4-5 distribution in the left lower extremity. She diagnosed cervical spondylosis; cervical stenosis; cervical radiculopathy; lumbar spondylosis; and lumbar radiculopathy. On April 26, 2005 Ms. Manitsas diagnosed left shoulder pain. Appellant submitted a second page of unsigned notes dated February 6, 2004 from Jacqueline Julte, a physician's assistant. She also submitted a June 22, 2004 report of an MRI scan of the lumbar spine.

In a January 22, 2006 narrative statement, appellant indicated that she had undergone neck surgery with no relief. She stated that her cervical spine had created problems with her shoulder, elbow, wrist and hands.

Appellant submitted an unsigned report dated June 1, 2005 from Dr. Jeffrey S. Miller, a chiropractor, who provided diagnoses of cervical spondylosis, cervical disc injury; right shoulder pain; and myofascial pain syndrome.

By decision dated March 20, 2006, the Office denied modification of its November 3, 2005 decision, finding that appellant had failed to establish any period of total disability between April 30 and July 13, 2005.

By decision dated March 30, 2006, the Office denied appellant's request for reconsideration of its January 12, 2006 decision, finding that the evidence submitted was insufficient to warrant a merit review.

LEGAL PRECEDENT -- ISSUE 1

Recurrence of disability means "an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which has resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness."[3]

[3] 20 C.F.R. § 10.5(x) (2003).

An employee who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability for which she claims compensation is causally related to the accepted injury. This burden of proof requires that a claimant furnish medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that for each period of disability claimed, the disabling condition is causally related to the employment injury and supports that conclusion with medical reasoning.[4] Where no such rationale is present, the medical evidence is of diminished probative value.[5]

The Board will not require the Office to pay compensation in the absence of medical evidence directly addressing the particular period of disability for which compensation is sought. To do so would essentially allow employees to self-certify their disability and entitlement to compensation.[6]

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met her burden of proof to establish that she sustained a recurrence of disability from April 30 through July 13, 2005 and beginning September 19, 2005, causally related to her accepted March 2004 employment injury. The medical evidence of record does not provide sufficient facts or rationalized medical opinion to support her claim.

Appellant's claim was accepted for left elbow/forearm strain, left wrist tendinitis and left shoulder strain. She returned to work with restrictions on April 30, 2005, pursuant to her physician's recommendation. Appellant filed claims for compensation for the period April 30 through July 13, 2005 and again commencing September 19, 2005. However, she did not submit any probative medical evidence demonstrating total disability during this period of time due to her accepted condition. She also filed a claim for recurrence of disability, alleging that her pain had worsened to the degree that she was unable to perform the duties of her job. However, she failed to provide a sufficiently rationalized medical opinion explaining a causal relationship between her current condition and her March 2004 injury.

In support of her claim for the period April 30 through July 13, 2005, appellant submitted reports from Drs. Abeles and Panjabi. None of the reports submitted contains an opinion that appellant was totally disabled during the period in question. In Dr. Abeles' April 13, 2005 report, he opined that appellant was capable of working full duty without restrictions. Dr. Panjabi released appellant to return to work on April 30, 2005, the date she allegedly experienced a recurrence of disability. She returned to work on that date in a position that encompassed Dr. Panjabi's restrictions and appellant accepted the modified carrier position on May 20, 2005. Numerous unsigned reports from Dr. Panjabi subsequent to appellant's return to work reflect her complaints of worsening shoulder pain. In that they are unsigned, they lack

[4] *Ronald A. Eldridge*, 53 ECAB 218 (2001).

[5] *Mary A. Ceglia*, 55 ECAB ___ (Docket No. 04-113, issued July 22, 2004).

[6] *Fereidoon Kharabi*, 52 ECAB 291 (2001).

proper identification and cannot be considered as probative medical evidence.[7] Moreover, they lack probative value in that they do not address whether appellant was totally disabled from performing the specific requirements of her job due to her work-related condition during the period in question. Similarly, in his signed August 15, 2005 attending physician's report, Dr. Panjabi failed to identify any period of total disability due to appellant's accepted injury. In fact, he specifically stated that appellant was only partially disabled from February 10, 2005 to February 10, 2006.

In his November 8, 2005 second opinion report, Dr. Mitchell stated that he was unable to determine whether or not appellant had experienced a period of total disability subsequent to April 2005. He opined that appellant's lumbosacral strain was related to her October 2001 injury and that her left shoulder impingement, tendinitis and left CTS were related to her March 2004 injury. Dr. Mitchell indicated that appellant could work eight hours, with restrictions related to reaching above the shoulder and avoiding repetitive activities with the left wrist. He stated that the only objective residuals of appellant's March 2004 injury were CTS and left shoulder impingement. When the Office asked Dr. Mitchell to clarify his report regarding specific periods of disability since April 2005 due to appellant's March 2004 injury, he stated that it was "somewhat difficult to determine whether there were specific periods of disability." Dr. Mitchell indicated that a period of total disability might be justified during the period September 1 through October 19, 2005, based on Dr. Panjabi's description of appellant's lumbar spine pain as "10/10." However, he was unable to ascertain with specificity the dates of any total disability. Accordingly, Dr. Mitchell's report does not assist appellant in establishing that she experienced a recurrence of total disability from April 30 through July 13, 2005.

In support of her claim for the period commencing September 19, 2005, appellant submitted several reports from Dr. Panjabi, including unsigned reports dated September 12, October 3 and 17, 2005. In that they are unsigned, these reports lack probative value. The Board notes that Dr. Panjabi's October 3, 2005 report reflects his opinion that appellant would not be able to return to work at that time due to a herniated disc. However, appellant's case was accepted for a shoulder strain only. Although Dr. Panjabi stated that appellant's neck pain and the current disc extrusion began at the same time as her shoulder injury and, as such, should be included with her shoulder claim, he did not fully explain how appellant's newly diagnosed condition was causally related to her accepted condition. Therefore, his opinion lacks probative value. Claims for recurrence of disability and compensation relating to appellant's cervical or low back condition would more appropriately be filed under her claims that were accepted for those conditions. Neither the September 12 nor the October 17, 2005 report addressed the issue of appellant's total disability. Therefore, they lack probative value in that regard as well.

Appellant also submitted an attending physician's report, signed by Dr. Panjabi on September 19, 2005, who provided a diagnoses of right shoulder pain and myofascial pain syndrome and noted a period of total disability from September 19 through October 3, 2005, when appellant would be permitted to return to work. The Board finds that the report is of diminished probative value in that Dr. Panjabi failed to opine that or explain how, appellant's

[7] *Merton J. Sills*, 39 ECAB 572, 575 (1988).

current condition was causally related to the accepted employment injury. The Board has long held that a medical opinion not fortified by medical rationale is of diminished probative value.[8]

Dr. Mitchell's November 8, 2005 report also fails to support a recurrence of total disability as of September 19, 2005, due to appellant's accepted March 2004 injury. Noting that it was unclear to him how much of appellant's pain was related to her shoulder, as opposed to the cervical spine, Dr. Mitchell noted that it was "somewhat difficult to determine whether there were specific periods of disability." Dr. Mitchell indicated that a period of total disability might be justified during the period from September 1 through October 19, 2005, based on Dr. Panjabi's description of appellant's lumbar spine pain as "10/10." However, he was unable to ascertain with specificity the dates of any total disability. Dr. Mitchell's opinion is speculative, at best, regarding the existence of any period of disability. Appellant is not entitled to compensation in the absence of medical evidence directly addressing the particular period of disability for which compensation is sought.[9] Moreover, the condition cited as the cause of a possible period of disability, lumbar spine pain, was not an accepted condition. Appellant had the burden of proving that she was disabled for work as a result of her accepted injury.[10] Therefore, in the absence of a rationalized explanation as to how appellant's lumbar spine pain was causally related to the accepted employment injury, this condition cannot be used as a basis for establishing a recurrence of disability.

The remaining medical evidence of record is insufficient to establish appellant's claim. Appellant submitted unsigned reports from Ms. Manitsas and Ms. Julte, physician's assistants. As physician's assistants are not considered physicians under the Federal Employees' Compensation Act, their opinions are of no probative value.[11] Moreover, in that they were unsigned and lacking proper identification, they cannot be considered as probative medical evidence.[12] Appellant submitted an unsigned report from Dr. Miller, a chiropractor, who diagnosed cervical spondylosis, cervical disc injury; right shoulder pain; and myofascial pain syndrome. Under section 8101(2) of the Act, the term "physician" includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray. In that Dr. Miller did not diagnose a subluxation demonstrated by x-ray, he is not considered a "physician" under the Act. Therefore, his report lacks probative value.[13]

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[8] *See Brenda L. DuBuque*, 55 ECAB ___ (Docket No. 03-2246, issued January 6, 2004); *see also David L. Scott*, 55 ECAB ___ (Docket No. 03-1822, issued February 20, 2004); *Willa M. Frazier*, 55 ECAB ___ (Docket No. 04-120, issued March 11, 2004).

[9] *Fereidoon Kharabi, supra* note 6.

[10] *Id. See also David H. Goss*, 32 ECAB 24 (1980).

[11] Section 8101(2) of the Act provides in pertinent part as follows: "(2) 'physician' includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law." *See Merton J. Sills, supra* note 7.

[12] *Merton J. Sills, supra* note 7.

[13] 5 U.S.C. § 8101(2). *Id.*

Appellant had the burden of establishing by the weight of the substantial, reliable and probative evidence that she was disabled for work for the period April 30 through July 13, 2005 and commencing September 19, 2005 due to a condition that was causally related to her accepted injury. However, she failed to furnish rationalized medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concluded that for each period of disability claimed, the disabling condition was causally related to the employment injury. For the reasons stated above, the Board finds that appellant failed to sustain her burden of proof.[14]

LEGAL PRECEDENT -- ISSUE 2

Section 8128(a) of the Act[15] vests the Office with discretionary authority to determine whether it will review an award for or against compensation, either under its own authority or on application by a claimant.[16] Section 10.606(b)(2) of Office regulations provides that a claimant may obtain review of the merits of the claim by either: (1) showing that the Office erroneously applied or interpreted a specific point of law; (2) advancing a relevant legal argument not previously considered by the Office; or (3) submitting relevant and pertinent new evidence not previously considered by the Office.[17] Section 10.608(b) provides that when an application for reconsideration does not meet at least one of the three requirements enumerated under section 10.606(b)(2), the Office will deny the application for reconsideration without reopening the case for a review on the merits.[18] Evidence or argument that repeats or duplicates evidence previously of record has no evidentiary value and does not constitute a basis for reopening a case.[19] Likewise, evidence that does not address the particular issue involved does not constitute a basis for reopening a case.[20]

ANALYSIS -- ISSUE 2

Appellant disagreed with the Office's January 12, 2006 decision and requested reconsideration on January 22, 2006. The Board finds that the Office properly denied her request for reconsideration without conducting a merit review of the claim.

In her request for reconsideration, appellant indicated that she had undergone neck surgery with no relief and stated that her cervical spine had created problems with her shoulder,

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[14] *See Fereidoon Kharabi*, *supra* note 6. (The Board will not require the Office to pay compensation for disability in the absence of any medical evidence directly addressing the particular period of disability for which compensation is claimed. To do so would essentially allow employees to self-certify their disability and entitlement to compensation.)

[15] 5 U.S.C. §§ 8101-8193.

[16] 5 U.S.C. § 8128(a).

[17] 20 C.F.R. § 10.606(b)(2).

[18] 20 C.F.R. § 10.608(b).

[19] *Helen E. Paglinawan*, 51 ECAB 591 (2000).

[20] *Kevin M. Fatzer*, 51 ECAB 407 (2000).

elbow, wrist and hands. She did not allege or show that the Office erroneously applied or interpreted a specific point of law or advance a relevant legal argument not previously considered by the Office. Therefore, appellant failed to satisfy either of the first two requirements enumerated under section 10.606(b)(2). The Board finds that she also failed to meet the third requirement, in that she failed to submit relevant and pertinent new evidence not previously considered by the Office.

In its January 12, 2006 decision, the Office denied appellant's claim for recurrence of disability on the grounds that appellant had failed to establish any period of total disability causally related to her accepted injury commencing September 19, 2005. Appellant, therefore, had the burden of submitting evidence relevant to that issue. In support of her request for reconsideration, appellant submitted unsigned reports from Ms. Manitsas dated April 11 and 26, 2005; unsigned notes dated February 6, 2004 from Ms. Julte, a physician's assistant; and an unsigned report dated June 1, 2005 from Dr. Miller, a chiropractor, who provided diagnoses of cervical spondylosis, cervical disc injury; right shoulder pain; and myofascial pain syndrome. She also submitted a June 22, 2004 report of an MRI scan of the lumbar spine. Appellant submitted several unsigned reports from Dr. Panjabi, as well as a signed operative report reflecting that appellant had received facet joint injections. None of the reports submitted by appellant addressed the issue of whether appellant was totally disabled subsequent to September 19, 2005. Therefore, they were not relevant to the issue at hand. The Board has held that the submission of evidence which does not address the particular issue involved does not constitute a basis for reopening a case.[21]

The Board finds that appellant has not submitted relevant and pertinent new evidence not previously considered by the Office; nor has she shown that the Office erroneously applied or interpreted a specific point of law or advanced a relevant new argument not previously considered by the Office. The Board finds, therefore, that the Office properly denied her request for reconsideration without conducting a merit review of the claim.

CONCLUSION

The Board finds that appellant failed to establish that she sustained a recurrence of total disability from April 30 through July 13, 2005 and beginning September 19, 2005, causally related to her accepted March 2004 employment injury. The Board further finds that the Office properly refused to reopen appellant's case for further review of the merits of her claim under 5 U.S.C. § 8128(a).

[21] *See Arlesa Gibbs,* 53 ECAB 204 (2001).

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated March 30 and 20 and January 12, 2006 and November 3, 2005 are affirmed.

Issued: August 7, 2006
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board