



On April 7, 2003 appellant filed a claim for a schedule award. This claim was denied by decision dated July 3, 2003. By letter dated July 10, 2003, appellant requested review of the written record. By decision dated December 23, 2003, the Office vacated the denial of the schedule award and directed the record for review by an Office medical adviser. By letter dated March 11, 2004, the Office referred appellant to Dr. Manhal A. Ghanma, a Board-certified orthopedic surgeon, for a second opinion with regard any permanent impairment. In a report dated April 2, 2004, Dr. Ghanma found that there were no current residuals from appellant's work injury of June 9, 1991. He noted that appellant had continuing complaints of back pain and thigh pain, which could not be independently verified. He found no evidence of motor weakness or objective evidence of sensory deficits. He stated that there was no impairment of either lower extremity, as there were no positive findings on examination. Dr. Ghanma based his conclusion on the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (5<sup>th</sup> ed.).

In a report dated April 27, 2004, the Office medical adviser found that there were no positive physical examination findings related to the lower extremities. He concluded that appellant had no permanent impairment of the lower extremities. By decision dated April 28, 2004, the Office denied appellant's claim for a schedule award. By letter dated May 12, 2004, appellant requested review of the written record. By decision dated March 7, 2005, the hearing representative affirmed the denial of the schedule award.

By letter dated December 21, 2005, appellant requested reconsideration and indicated that he was enclosing additional medical evidence. However, nothing was submitted with the letter. Appellant contended that the Office erred in not issuing a schedule award, as he was unable to bend or sit flexed at the hip for long periods and that he had continuation of pain and numbness from his back to his right leg. By letter dated January 31, 2006, the Office gave appellant 15 days within which to submit additional evidence. Appellant did not respond. In a decision dated February 23, 2006, the Office denied reconsideration without conducting merit review as it found that appellant had not submitted new evidence or argument to warrant review of the March 7, 2005 decision.

### **LEGAL PRECEDENT**

The Federal Employees' Compensation Act<sup>1</sup> provides that the Office may review an award for or against compensation upon application by an employee who receives an adverse decision. The employee may obtain this relief through a request to the district Office. The request, along with the supporting statements and evidence, is called the application for reconsideration.<sup>2</sup>

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> 20 C.F.R. § 10.605.

To require the Office to reopen a case for merit review under 5 U.S.C. § 8128(a), the Office's regulations provide that the application for reconsideration must set forth arguments and contain evidence that either: (1) shows that the Office erroneously applied or interpreted a specific point of law; (2) advances a legal argument not previously considered by the Office; or (3) constitutes relevant and pertinent new evidence not previously considered by the Office.<sup>3</sup>

A timely request for reconsideration may be granted if the Office determines that the employee has presented evidence and/or argument that meets at least one of these standards. If reconsideration is granted, the case is reopened and is reviewed on the merits.<sup>4</sup>

### **ANALYSIS**

Appellant did not make any argument that the Office erroneously applied or interpreted a specific point of law or advance a legal argument not previously considered by the Office. Although appellant stated that he submitted evidence in support of his request, no evidence was received, despite the fact that the Office gave appellant additional time to submit this evidence. The only evidence that was submitted consisted of appellant's allegations regarding his condition. However, appellant's claim for a schedule award was denied as appellant did not submit medical evidence establishing that he sustained a permanent impairment. Appellant's allegations and statements do not constitute medical evidence showing that he had an impairment. Accordingly, the Board finds that appellant did not show that the Office erroneously applied or interpreted a specific point of law, did not raise any substantive legal questions and failed to submit any relevant and pertinent new evidence not previously reviewed by the Office.

### **CONCLUSION**

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

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<sup>3</sup> 20 C.F.R. § 10.606.

<sup>4</sup> 5 U.S.C. §§ 8101-8193, § 8123(a). The Board has found that the imposition of the one-year limitation does not constitute an abuse of discretionary authority granted the Office under section 8128(a) of the Act. *See Adell Allen (Melvin L. Allen)*, 55 ECAB 390 (2004).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated February 23, 2006 is affirmed.

Issued: December 7, 2006  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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

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