United States Department of Labor
Employees' Compensation Appeals Board

D.C., Appellant	)	
and	)	**Docket No. 07-1061**
	)	**Issued: August 15, 2007**
DEPARTMENT OF THE NAVY, MARINE CORP LOGISTICS BASE, Barstow, CA, Employer	)	

Appearances:
Appellant, 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
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On March 2, 2007 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated January 10, 2007 which denied his claim for recurrence and a nonmerit decision dated February 5, 2007 which denied his reconsideration request. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the appeal.

ISSUES

The issues are: (1) whether the Office properly denied appellant's claim of recurrence; and (2) whether the Office properly refused to reopen appellant's case for further review of the merits of his claim pursuant to 5 U.S.C. § 8128(a).

FACTUAL HISTORY

On May 16, 1994 appellant, then a 40-year-old mobile equipment metal worker, filed a traumatic injury claim with his employing establishment alleging that on May 13, 1994 he "popped a hemorrhoid" while lifting the hood of a hummer. In a May 2, 2005 notice of

recurrence of disability, appellant alleged that his original injury never healed and that he had sustained an anal hernia.

In an August 12, 2005 letter, the employing establishment informed the Office that appellant's original claim was timely filed (but had not resulted in lost time or medical expense) and forwarded his CA-1 and CA-2a. In an August 25, 2005 letter, the Office informed appellant that the evidence submitted was insufficient to support his claim and requested additional factual and medical information. Appellant responded in a September 13, 2005 letter. On September 13, 2005 the Office also received a dispensary permit dated May 14, 1994, which contains an illegible signature by a medical officer, and which notes that appellant has a nonoccupational "hyrnia right side." The dispensary permit also indicates that appellant had no medical restrictions.

By decision dated September 30, 2005, the Office denied appellant's 1994 traumatic injury claim. The Office found that appellant had not established that he sustained a compensable injury as there was no medical evidence of a diagnosed condition connected with the accepted event.

On October 4, 2005 appellant requested reconsideration. Appellant resubmitted documents including his claim forms and letters which were previously of record. Appellant also advised the Office again that his initial injury had never resolved. By merit decision dated January 10, 2006, the Office denied modification of the prior decision.

A March 1, 2006 letter with copies of appellant's Form CA-1 and previously submitted documents was received by the Office. On December 2, 2006 appellant requested reconsideration accompanied by copies of previously submitted documents.

By decision dated January 10, 2007, the Office denied appellant's May 2, 2005 recurrence claim on the grounds that appellant's original claim was denied.

By a February 5, 2007 nonmerit decision, the Office denied appellant's request for reconsideration on the grounds that no new evidence was submitted.

LEGAL PRECEDENT -- ISSUE 1

A 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 resulted from a previous employment injury or illness without intervening injury or new exposure to the work environment that caused the illness.[1] An individual who claims a recurrence of disability resulting from an accepted employment injury has the burden of establishing that the disability is related to the accepted injury. This burden requires furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes

[1] *Hubert Jones, Jr.*, 57 ECAB ___ (Docket No. 05-603, issued March 10, 2006).

that the disabling condition is causally related to the employment and who supports that conclusion with sound medical reasoning.[2]

ANALYSIS -- ISSUE 1

In this case, the Office denied appellant's 1994 traumatic injury claim for a hernia on September 30, 2005 because appellant did not submit medical evidence to establish a causal relationship between the condition and his employment. Because more than one year elapsed from the last merit decision regarding this claim, dated January 10, 2006, before appellant filed the current appeal, on March 2, 2007, the Board no longer has jurisdiction over the 1994 traumatic injury claim.[3] The Office denied appellant's claim for recurrence on the grounds that his initial claim was never accepted. To establish a compensable recurrence, appellant must establish an initial employment-related injury, which has been accepted. As appellant's injury claim was never accepted, there cannot be a compensable recurrence of that injury. The Office properly denied appellant's claim of recurrence.

LEGAL PRECEDENT -- ISSUE 2

Under 20 C.F.R. § 10.606(b)(2), a claimant may obtain review of the merits of his or her claim: (1) by showing that the Office erroneously applied or interpreted a specific point of law; (2) by advancing a relevant legal argument not previously considered by the Office; or (3) by constituting relevant and pertinent new evidence not previously considered by the Office.[4]

Section 10.608(b) provides that when an application for review of the merits of a claim does not meet at least one of the three regulatory requirements the Office will deny the application for review without reviewing the merits of the claim.[5] 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.[6]

ANALYSIS -- ISSUE 2

Appellant requested reconsideration on December 2, 2006. Between the prior decision on January 10, 2006 and appellant's request the Office received copies of previously submitted documents, and appellant's own statements reiterating his claim. It is well established that evidence which repeats or duplicates evidence already in the record has no evidentiary value and constitutes no basis for reopening a case.[7] Merely submitting copies of documents previously submitted does not constitute a basis to reopen the case. The only new documents received were

[2] *Mary A. Ceglia*, 55 ECAB 626 (2004).

[3] 20 C.F.R. § 501.3(d).

[4] 5 U.S.C. § 8128(a); *Richard Yadron*, 57 ECAB ___ (Docket No. 05-1738, issued November 8, 2005).

[5] 20 C.F.R. § 10.608(b); *Richard Yadron, id.*

[6] *Richard Yadron, id.*

[7] *Eugene F. Butler*, 36 ECAB 393 (1984); *Bruce E. Martin*, 35 ECAB 1090 (1984).

the December 2, 2006 reconsideration form and a March 1, 2006 letter, neither of which alleges that the Office erroneously applied or interpreted a specific point of law or advances a relevant legal argument not previously considered by the Office. As appellant has not met any of the three regulatory requirements he is not entitled to a review of the merits of his claim. The Office properly denied appellant's request for reconsideration.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that he is entitled to reconsideration of his claim nor has he demonstrated that he sustained a recurrence.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated February 5 and January 10, 2007 are affirmed.

Issued: August 15, 2007
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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