



By letter dated April 6, 2004, the employing establishment controverted the claim. It noted that appellant had not been employed with the employing establishment since April 1999 and contended that any injury or disability she currently claimed did not arise from her federal employment.

By letter dated July 6, 2004, the Office advised appellant that she needed to submit additional information in support of her claim. The Office stated that the medical evidence appellant submitted indicated that her condition was related to an injury she sustained on April 20, 1991. The Office requested that appellant submit additional medical evidence in support of her claim, including a comprehensive medical report describing how factors of her employment resulted in the claimed condition on April 12, 1999 and factual evidence establishing that she developed a bilateral foot condition caused by factors of her employment on April 12, 1999.

In a report dated July 23, 2004, Dr. Jeffrey M. Rifkin, Ph.D, stated that on April 12, 1999 appellant had to leave work due to severe pain which had been accumulating for two years. He advised that her pain was related to her duties as a registry mail clerk which involved repetitive movements such as bending, squatting, kneeling, reaching, pushing, pulling and recording. Dr. Rifkin stated that these repetitive movements occurred five days a week, eight hours per day which resulted in chronic pain syndrome, degenerative disc and joint disease, fibromyalgia and chronic clinical depression. He stated that appellant's ability to resume her duties was severely hampered without causing even greater damage to her physical body and psyche.

In a July 23, 2004 report, Dr. Russ M. Seger, a chiropractor, noted complaints of chronic fatigue, headaches, total body joint pain, bilateral knee pain, neck pain, shoulder pain, lower back pain and sciatic pain. He prescribed home physical therapy and possibly chronic pain management in the form of epidural steroid consultations and pain management medications, if needed. Dr. Seger also suggested the possibility of emergency room treatment in the event that appellant's conditions worsening significantly.

By decision dated August 24, 2004, the Office denied the claim.

By letter dated January 11, 2005, appellant requested reconsideration. In an undated report, Dr. Massood Jallali, a podiatrist, stated that appellant experienced foot pain for several years, which was getting worse. The pain increased at the bottom of her feet with walking or standing. Dr. Jallali stated that most of appellant's lower extremity pain, particularly her feet and ankle pain, was caused by compensating for her previous conditions of lower back pain, sciatica and fibromyalgia.

In an undated report, Dr. Kenneth Davis, a chiropractor, stated that appellant had lower back, neck and shoulder pain on examination which increased with range of motion exercises. He advised her to avoid heavy lifting, repetitive bending and twisting of the lumbar spine. Dr. Davis opined that appellant had sustained a consequential injury stemming from her 1991 employment injury which resulted in symptomatology lasting for 13 years. He stated that her symptomatology was correlated to her diagnosis of fibromyalgia.

In an August 27, 2004 report, Dr. Rifkin stated that appellant's symptoms had expanded and worsened. He noted complaints of severe lumbar radicular pain radiating down appellant's

left side into her hip, leg, knee and foot. Dr. Rifkin noted Dr. Jallali's opinion that appellant's posture had been radically compromised due to overcompensation, creating a condition in her left foot and arch which caused appellant to experience severe pain.

By decision dated May 25, 2005, the Office denied modification of the August 24, 2004 Office decision.<sup>1</sup>

By letter dated March 23, 2006, appellant requested reconsideration. She submitted an unsigned June 9, 2005 clinical treatment note which listed findings regarding a broken right wrist. In a September 20, 2005 form report, a chiropractor, whose signature is illegible, noted treatment. An unsigned February 20, 2005 treatment note contained findings regarding a syncopal episode. Appellant also resubmitted the August 27, 2005 report of Dr. Rifkin.

By decision dated June 20, 2006, 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 constituting relevant and pertinent evidence not previously considered by the Office.<sup>2</sup> 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.<sup>3</sup>

### **ANALYSIS**

In the present case, appellant has not shown that the Office erroneously applied or interpreted a specific point of law, she has not advanced a relevant legal argument not previously considered by the Office; and she has not submitted relevant and pertinent evidence not previously considered by the Office. Appellant did not submit any evidence or legal argument which addressed the relevant issue of whether her claimed conditions of chronic pain syndrome, degenerative disc and joint disease, fibromyalgia and chronic clinical depression were causally related to factors of her federal employment. The unsigned June 9 and February 20, 2005 treatment notes containing findings pertaining to a broken right wrist and a syncopal episode. These reports are not relevant to the underlying issue because they do not address appellant's claimed conditions and are not attributable to a physician. The September 20, 2005 chiropractic report does not contain a legible signature and does not constitute relevant evidence under section 8101(2). Dr. Rifkin's August 27, 2005 report was previously considered by the Office

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<sup>1</sup> The Office noted that Dr. Jallali did not relate any of appellant's claimed conditions to factors of her federal employment and that Dr. Davis' chiropractic report did not constitute medical evidence under section 5 U.S.C. § 8101(2) because it did not indicate that he provided manual manipulation of the spine and subluxation of the spine as indicated by x-ray.

<sup>2</sup> 20 C.F.R. § 10.606(b)(1); *see generally* 5 U.S.C. § 8128(a).

<sup>3</sup> *Howard A. Williams*, 45 ECAB 853 (1994).

and is, therefore, cumulative and repetitive. The Board has held that the submission of evidence which does not address the underlying issue involved in the case does not constitute a basis for reopening the claim.<sup>4</sup> Appellant's reconsideration request failed to show that the Office erroneously applied or interpreted a point of law, nor did it advance a point of law or fact not previously considered by the Office. The Office did not abuse its discretion in refusing to reopen her claim for a review on the merits.<sup>5</sup>

**CONCLUSION**

The Board finds that the Office properly refused to reopen appellant's case for reconsideration on the merits of her claim under 5 U.S.C. § 8128(a).

**ORDER**

**IT IS HEREBY ORDERED THAT** the June 20, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 14, 2007  
Washington, DC

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

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

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

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<sup>4</sup> See *David J. McDonald*, 50 ECAB 185 (1998).

<sup>5</sup> The Board notes that appellant submitted additional evidence to the record following the April 12, 2004 Office decision. The Board's jurisdiction is limited to a review of evidence which was before the Office at the time of its final review. 20 C.F.R. § 501(c).