

**United States Department of Labor
Employees' Compensation Appeals Board**

S.K., Appellant)
and) Docket No. 07-62
DEPARTMENT OF THE TREASURY,) Issued: March 12, 2007
INTERNAL REVENUE SERVICE,)
Fitchburg, MA, 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
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On October 6, 2006 appellant filed a timely appeal from a July 10, 2006 Office of Workers' Compensation Programs' nonmerit decision. Because more than one year has elapsed between the most recent merit decision of June 27, 2005 and the filing of this appeal, the Board lacks jurisdiction to review the merits of her claim pursuant to 20 C.F.R. §§ 501(c)(2) and 501.3(d)(2).

ISSUE

The issue is whether the Office properly refused to reopen appellant's case for reconsideration of her claim under 5 U.S.C. § 8128.

FACTUAL HISTORY

Appellant, a 34-year-old data transcriber, injured her right arm on March 9, 1999 while keying a computer. She filed a claim for benefits on March 11, 1999, which the Office accepted

for right forearm tendinitis and bilateral thoracic outlet syndrome. Appellant has not worked since April 25, 1999. The Office paid appropriate compensation for temporary total disability.

The Office determined that there was a conflict in the medical evidence and referred appellant to Dr. Osama A. Al-Masri, Board-certified in orthopedic surgery, for an impartial medical examination. In a November 8, 2001 report, Dr. Al-Masri stated that appellant appeared healthy and in no acute pain on examination. He related that appellant's range of motion showed no restriction and pain. Dr. Al-Masri found normal strength in the upper extremities, with no muscle atrophy, sensory deficits or weakness of any major muscle group. He stated that appellant did not seem to experience any symptoms related to her employment injury. Dr. Al-Masri did not see any residual problems stemming from her overuse injury, which had resolved. He advised that there were no objective symptoms to substantiate any type of residual difficulty. Dr. Al-Masri concluded that appellant could return to any type of employment.

By decision dated October 3, 2002, the Office terminated appellant's compensation.

By letter dated November 24, 2002, appellant requested an oral hearing, which was held on June 26, 2003.

By decision dated September 12, 2003, an Office hearing representative affirmed the October 3, 2002 decision.

In a letter received by the Office on March 28, 2005, appellant requested reconsideration.

By decision dated June 27, 2005, the Office denied modification of the September 12, 2003 Office decision.

By letter dated March 21, 2006, appellant requested reconsideration. Appellant stated in the letter that "enclosed you will find the appeal request form and 'relevant new evidence' that is needed to appeal this decision." The Office did not receive any additional evidence from appellant.

By decision dated July 10, 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.¹ 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.²

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

² *Howard A. Williams*, 45 ECAB 853 (1994).

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. Appellant did not submit any new medical evidence in connection with her March 21, 2006 reconsideration request which addresses the underlying issue of whether she is disabled or still has residuals from her accepted condition. Although she stated in her letter that she was enclosing new, relevant evidence in support of her request, she did not submit any materials with her letter. 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 appellant's claim for a review on the merits.

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 July 10, 2006 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: March 12, 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