

The Office granted appellant schedule awards on June 8, 2001 for a 9 percent impairment of the left upper extremity; on June 20, 2002 for a 32 percent impairment of the left lower extremity and a 15 percent impairment of the right hip/leg; and an additional 25 percent award for left upper extremity impairment on June 27, 2003.

By decision dated March 23, 2004, the Office denied appellant's request for an additional schedule award greater than the amount awarded in the June 27, 2003 Office decision.

By letter dated March 29, 2004, appellant requested reconsideration.

By decision dated February 10, 2005, the Office denied appellant's request for modification of the June 27, 2003 Office decision.

By letter dated February 9, 2006, appellant requested reconsideration.

Appellant submitted reports dated January 8, March 5 and April 16, 2007 from Dr. Michael A. Franchetti, Board-certified in orthopedic surgery. In these reports, Dr. Franchetti reviewed findings on examination and stated that appellant had tenderness and weakness in his right shoulder and right elbow. He related that appellant experienced some pain with loss of motion in the right shoulder and right elbow. Dr. Franchetti diagnosed right shoulder sprain and strain with rotator cuff injury and right elbow strain. His reports did not contain an evaluation conducted pursuant to the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.

By decision dated October 26, 2007, 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 submitting 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

ANALYSIS

In the present case, appellant has not shown that the Office erroneously applied or interpreted a specific point of law; he has not advanced a relevant legal argument not previously considered by the Office; and he has not submitted relevant and pertinent evidence not previously considered by the Office. The evidence appellant submitted is not pertinent to the issue on appeal. Dr. Franchetti diagnosed right shoulder sprain and strain with rotator cuff injury

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).

and right elbow strain in his January to April 2007 reports. He addressed findings on examination and noted some pain with loss of motion in the right shoulder and right elbow. These reports, however, did not address the relevant issue of whether appellant had any additional permanent impairment stemming from his accepted employment injuries, pursuant to the A.M.A., *Guides*. The Board has held that the submission of evidence which does not address the particular issue involved in the case does not constitute a basis for reopening the claim.³ 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 Office properly refused to reopen appellant's case for reconsideration on the merits of his claim under 5 U.S.C. § 8128(a).

ORDER

IT IS HEREBY ORDERED THAT the October 26, 2007 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: August 15, 2008
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

³ See *David J. McDonald*, 50 ECAB 185 (1998).