



appropriate wage-loss compensation.<sup>1</sup> Effective March 8, 2004, it terminated appellant's wage-loss compensation and medical benefits because she no longer had residuals of her May 29, 2000 employment injury.<sup>2</sup> On July 6, 2004 appellant requested reconsideration of the Office's March 8, 2004 decision. The Office subsequently reviewed the merits of her claim and denied modification by decision dated April 19, 2005. Appellant filed another request for reconsideration on April 17, 2006. On July 26, 2006 the Office again denied modification.

Appellant filed her most recent request for reconsideration on July 23, 2007. She submitted magnetic resonance imaging (MRI) scans of the cervical, thoracic and lumbar spines that were obtained in April 2004.<sup>3</sup> Additionally, since its last decision dated July 26, 2006, the Office received several prescription refill requests from appellant's treating physician, Dr. Robert W. Hunt, a Board-certified orthopedic surgeon.

In a decision dated September 5, 2007, the Office denied appellant's request for reconsideration.

### **LEGAL PRECEDENT**

The Office has the discretion to reopen a case for review on the merits.<sup>4</sup> Section 10.606(b)(2) of Title 20 of the Code of Federal Regulations provides that the application for reconsideration, including all supporting documents, must set forth arguments and contain evidence that either: (i) shows that the Office erroneously applied or interpreted a specific point of law; (ii) advances a relevant legal argument not previously considered by the Office; or (iii) constitutes relevant and pertinent new evidence not previously considered by the Office.<sup>5</sup> When an application for reconsideration does not meet at least one of the three requirements enumerated under section 10.606(b)(2), the Office will deny the application for reconsideration without reopening the case for a review on the merits.<sup>6</sup>

### **ANALYSIS**

Appellant's July 23, 2007 request for reconsideration did not allege or demonstrate that the Office erroneously applied or interpreted a specific point of law. Additionally, she did not advance a relevant legal argument not previously considered by the Office.<sup>7</sup> Therefore, appellant

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<sup>1</sup> The Office placed her on the periodic compensation roll beginning March 25, 2001.

<sup>2</sup> The Office based its decision on the June 20, 2003 report of Dr. Edward O. Leventen, a Board-certified orthopedic surgeon and impartial medical examiner.

<sup>3</sup> The thoracic MRI scan was taken on April 7, 2004 and the lumbar and cervical MRI scans were both obtained on April 21, 2004.

<sup>4</sup> 5 U.S.C. § 8128(a) (2000).

<sup>5</sup> 20 C.F.R. § 10.606(b)(2) (2008).

<sup>6</sup> 20 C.F.R. § 10.608(b).

<sup>7</sup> Appellant merely reiterated arguments she had previously raised, particularly with respect to the Office's reliance on Dr. Leventen's June 20, 2003 report.

is not entitled to a review of the merits of her claim based on the first and second above-noted requirements under section 10.606(b)(2).<sup>8</sup> She also failed to satisfy the third requirement under section 10.606(b)(2). Appellant did not submit any relevant and pertinent new evidence with her July 23, 2007 request for reconsideration. The April 7 and 21, 2004 MRI scan reports were newly submitted, however, they do not address the relevant issue of whether she was disabled due to residuals of her May 29, 2000 employment injury. There is nothing in these reports that associates any of the particular findings to appellant's accepted injury. This evidence is not relevant or pertinent to the issue on reconsideration.<sup>9</sup> Dr. Hunt's April and June 2004 prescription refill requests are similarly deficient. This information also fails to address the underlying issue of whether appellant has disabling residuals of her May 29, 2000 employment injury. Consequently, she is not entitled to a review of the merits of her claim based on the third requirement under section 10.606(b)(2).<sup>10</sup>

### CONCLUSION

The Board finds that the Office properly denied appellant's July 23, 2007 request for reconsideration.

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<sup>8</sup> 20 C.F.R. § 10.606(b)(2)(i) and (ii).

<sup>9</sup> While the April 7 and 21, 2004 MRI scan reports had not previously been submitted, the results of those studies were summarized in the May 7, 2004 report of Dr. Zoraida I. Suarez, a neurologist, which the Office previously considered in conjunction with appellant's July 6, 2004 request for reconsideration. Submitting additional evidence that repeats or duplicates information already in the record does not constitute a basis for reopening a claim. *James W. Scott*, 55 ECAB 606, 608 n.4 (2004).

<sup>10</sup> 20 C.F.R. § 10.606(b)(2)(iii).

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 5, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 1, 2008  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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