

On December 9, 2005 appellant filed a Form CA-2a claim for benefits, alleging that he sustained a recurrence of disability as of October 17, 2005 causally related to his accepted cervical condition.

By letter dated June 22, 2006, the Office advised appellant that it required additional factual and medical evidence to determine whether he was eligible for compensation benefits based on a recurrence of disability. The Office asked appellant to submit a comprehensive medical report from his treating physician describing his symptoms and the medical reasons for his condition and an opinion as to whether his claimed condition as of October 17, 2005 was causally related to his March 6, 1994 employment injury.

By decision dated August 8, 2006, the Office denied appellant's claim for a recurrence of his accepted cervical condition.

By letter dated November 12, 2006, appellant requested reconsideration. He did not submit any additional medical evidence.

By decision dated November 22, 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.

By letter dated December 8, 2006, appellant requested reconsideration. He submitted reports dated July 28 and October 16, 2006 from Dr. Seema Anand, Board-certified in internal medicine. In the July 28, 2006 report, Dr. Anand stated:

"This is a 57-year-old male [who] comes in today with complaints of worsening pain in cervical area with radiation towards arms. Says Lortas helps somewhat but does not relieve the pain completely. [Appellant] has severe degenerative joint disease of [the spine] and a posterior dis[c] herniation is noted at C6 level."

He recommended referral to a neurosurgeon.

On October 16, 2006 Dr. Anand noted that appellant continued to complain of persistent neck pain radiating into his arms. He stated:

"This is to state that [appellant] suffers with significant cervical area pain. In my opinion his present condition is related to his previous injury in 1994. It is a known fact that accelerated arthritis is evident in old traumatic areas."

By merit decision dated December 15, 2006, the Office denied appellant's claim, finding that Dr. Anand did not provide sufficient rationale for his stated conclusion on causal relation.

By letter dated August 7, 2007, appellant's attorney requested reconsideration. Appellant resubmitted the reports of Dr. Anand and an August 16, 1994 magnetic resonance imaging (MRI) scan which indicated a probable left C6-7 herniated nucleus pulposus; possible left C4-5 herniated nucleus pulposus versus spondylosis; multiple levels of degenerative disc disease; and narrow spinal canal without true stenosis.

By decision dated October 16, 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 further merit review.

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. 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 has not submitted any new medical evidence which addresses the relevant issue of whether appellant's claimed cervical condition was causally related to factors of her federal employment. The reports from Dr. Anand were previously considered and rejected by the Office and are therefore cumulative and repetitive.

The August 1994 MRI scan, taken 11 years prior to the alleged recurrence of disability, contains findings of cervical herniation but is not relevant to the issue of whether appellant's disability in 2005 was caused or aggravated by the March 1994 employment injury. 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 his claim under 5 U.S.C. § 8128(a).

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).

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

ORDER

IT IS HEREBY ORDERED THAT the October 16, 2007 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: June 23, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

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