

that she was unable to work from December 29, 1999 to January 5, 2000 due to her carpal tunnel syndrome. On March 24, 2000 the Office accepted that she had sustained a recurrence of disability due to bilateral carpal tunnel syndrome.

Appellant requested a schedule award on June 5, 2000. By decision dated March 21, 2002, the Office granted appellant a schedule award for 15 percent impairment of her right upper extremity and 10 percent impairment of her left upper extremity. Appellant requested an oral hearing. By decision dated February 7, 2003, an Office hearing representative remanded her claim for further development of the medical evidence. The Office issued a decision on May 5, 2003 granting appellant a schedule award for an additional 3 percent impairment of her left upper extremity, a total of 15 percent impairment of the right upper extremity and 13 percent impairment of the left upper extremity. Appellant again requested an oral hearing on May 27, 2003. By decision dated January 23, 2004, the hearing representative affirmed the Office's May 5, 2003 decision.

Appellant requested reconsideration of the hearing representative's January 23, 2004 decision on February 25, 2004. The Office declined to reopen her claim for reconsideration of the merits on May 4, 2004. Appellant again requested reconsideration on July 14, 2004. By decision dated October 14, 2004, the Office again declined to reopen her claim for further reconsideration of the merits. Appellant requested reconsideration on November 22, 2004 and submitted additional medical evidence. By decision dated February 23, 2005, the Office found that she submitted sufficient evidence to warrant merit review, but denied her request for an additional schedule award.

By decision dated September 7, 2005, the Office granted appellant schedule awards for an additional 15 percent impairment of her right upper extremity and an additional 17 percent impairment of her left upper extremity.¹

Appellant requested a review of the written record on September 16, 2005. She alleged that the Office compensated her for 32 percent impairment, but that she was entitled to compensation for 60 percent impairment. By decision dated February 13, 2006, the hearing representative affirmed the Office's September 7, 2005 decision.

On July 26, 2007 appellant requested reconsideration of the February 13, 2006 hearing representative's decision. She contended that she was entitled to a schedule award for an additional 28 percent impairment of her upper extremities. Appellant submitted a letter to her senator explaining that she felt that she was entitled to a schedule award for an additional 30 percent impairment of each extremity rather than to a combined impairment rating of 30 percent of each extremity. She also resubmitted notes from Dr. William J. Launder, a Board-certified orthopedic surgeon, dated July 5, 2000 and November 17, 2004. He noted that appellant's

¹ Appellant has received schedule awards totaling 30 percent of each of her upper extremities. She received a schedule award for 15 percent impairment of her right upper extremity on March 21, 2002 and an additional schedule award for 15 percent impairment of her right upper extremity on September 9, 2005. Appellant received a schedule award for 10 percent impairment of her left upper extremity on March 21, 2002, a schedule award for an additional 3 percent impairment of her left upper extremity on May 5, 2003 and the final schedule award for an additional 17 percent impairment of her left upper extremity on September 9, 2005.

impairment ratings had increased from 15 percent impairment of each upper extremity to 30 percent impairment of each upper extremity.

By decision dated August 20, 2007, the Office declined to reopen appellant's claim for consideration of the merits on the grounds that she failed to submit relevant and pertinent new evidence.

LEGAL PRECEDENT

To require the Office to reopen a case for merit review under section 8128(a) of the Federal Employees' Compensation Act,² the Office's regulations provide that the evidence or argument submitted by a claimant must: (1) show that the Office erroneously applied or interpreted a specific point of law; (2) advance a relevant legal argument not previously considered by the Office; or (3) constitute relevant and pertinent new evidence not previously considered by the Office.³ When a claimant fails to meet one of the above standards, the Office will deny the application for reconsideration without reopening the case for review on the merits.⁴

ANALYSIS

The Office has granted appellant schedule awards for a total of 30 percent impairment to each of her upper extremities. Appellant disagreed with these amounts and asserted that she had greater impairment of 30 percent to each of her upper extremities in addition to the schedule awards she received for 15 percent impairment of her right upper extremity and 13 percent impairment of her left upper extremity. She submitted this argument to the hearing representative before his February 13, 2006 decision. The hearing representative considered this argument prior to issuing his February 13, 2006 decision. Therefore, this is not a relevant legal argument not previously considered by the Office. Appellant has not submitted any documentation or evidence in support of a contention that the Office erroneously applied or interpreted a specific point of law. Appellant has not submitted any relevant and pertinent new evidence suggesting that she has more than 30 percent impairment of each of her upper extremities for which she has received a schedule award. She resubmitted notes from Dr. Launder previously considered by the Office in reaching its merit decisions. Therefore these notes do not constitute new evidence. As appellant's request for reconsideration did not include evidence or argument conforming to the standards set forth in 20 C.F.R. § 10.606(b)(2), the Office properly declined to reopen her claim for consideration of the merits.

CONCLUSION

The Board finds that the Office properly declined to reopen appellant's claim for consideration of the merits under 5 U.S.C. § 8128(a).

² 5 U.S.C. §§ 8101-8193, § 8128(a).

³ 20 C.F.R. § 10.606(b)(2).

⁴ 20 C.F.R. § 10.608(b).

ORDER

IT IS HEREBY ORDERED THAT the August 20, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 5, 2008
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