

By letter dated September 16, 2008, the Office advised appellant that it required additional factual and medical evidence, including a medical report, to support his claim that his current condition or disability as of June 1, 2008 was caused or aggravated by his accepted September 8, 1992 employment injury.

The Office received a report on September 26, 2008, which was composed on September 10, 2008 by Sheri Cameron, an occupational therapist; the report was cosigned by Dr. Jonathan E. Greenleaf, Board-certified in orthopedic surgery, appellant's longtime treating physician. Dr. Greenleaf reviewed the history of injury and stated findings on examination. He noted that appellant had been experiencing significant left shoulder pain for approximately two months, which was particularly severe at night. Appellant related that he experienced instability, popping and clicking in the shoulder when he tried to lay on it. He also noted discomfort in the lateral aspect of his arm when he tried doing simple household tasks and overhead lifting, which increased his symptomatology. Dr. Greenleaf advised that appellant did not recall sustaining a new injury. He recommended that appellant undergo a magnetic resonance imaging (MRI) scan.

By decision dated October 27, 2008, the Office denied the recurrence of disability claim. The Office found that appellant failed to submit medical evidence sufficient to establish that the claimed condition or disability as of June 1, 2008 was causally related to the accepted conditions.

On October 31, 2008 appellant requested reconsideration. He submitted a copy of a partial transcript from a September 25, 1996 hearing before an Office hearing representative. Appellant did not submit any additional medical evidence with his request.

By decision dated January 26, 2009, 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 -- ISSUE 1

An individual who claims a recurrence of disability resulting from an accepted employment injury has the burden of establishing that the disability is related to the accepted injury. This burden requires furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the employment injury, and who supports that conclusion with sound medical reasoning.¹ A recurrence of disability is defined as the inability to work caused by a spontaneous change in a medical condition, which results from a previous injury or illness without an intervening injury, or new exposure in the work environment that caused the illness.²

ANALYSIS -- ISSUE 1

Appellant has failed to submit any medical opinion evidence containing a rationalized, probative report, which relates his condition or disability as of June 1, 2008 to his accepted left shoulder condition. For this reason, he has not discharged his burden of proof to establish his

¹ *Dennis E. Twardzik*, 34 ECAB 536 (1983); *Max Grossman*, 8 ECAB 508 (1956); 20 C.F.R. § 10.121(a).

² *See* 20 C.F.R. § 10.5(x); *Donald T. Pippin*, 54 ECAB 631 (2003).

claim that he sustained a recurrence of disability as a result of his accepted employment condition. Appellant has failed to submit evidence to show that he sustained a worsening of his accepted left shoulder conditions as of June 1, 2008. As appellant did not submit medical evidence sufficient to establish that he sustained a recurrence of his work-related, 1992 left shoulder condition, the Office properly denied compensation in its October 27, 2008 decision.

Appellant submitted a September 10, 2008 report from Dr. Greenleaf, who noted that appellant had been experiencing significant left shoulder pain and instability in the left shoulder for approximately two months. Dr. Greenleaf related that appellant felt discomfort in his left arm while attempting to perform routine household tasks and overhead lifting, although he could not recall sustaining a new injury. He recommended that appellant undergo an MRI scan in order to ascertain the nature of appellant's current left shoulder condition. Dr. Greenleaf's report, however, did not address the causal connection, if any, between appellant's employment-related left shoulder condition and his alleged recurrence of disability. Causal relationship must be established by rationalized medical opinion evidence. Dr. Greenleaf's report failed to provide an explanation of how appellant's left rotator cuff syndrome, left shoulder sprain and left shoulder ganglion cyst would cause or contribute to his claimed disability as of June 1, 2008. In addition, although his report generally noted that appellant complained of disabling left shoulder pain as of June 1, 2008, he failed to provide a diagnosis of appellant's current condition and did not provide a discussion of how appellant's accepted left shoulder condition would cause or contribute to his claimed disability as of June 1, 2008. The Board finds that appellant failed to submit rationalized medical evidence sufficient to establish that his current condition was causally related to his 1992 employment injury.

Appellant has not submitted sufficient medical evidence supporting his claim that he sustained a recurrence of his employment-related disability as of June 1, 2008. The Office properly found that appellant was not entitled to compensation based on a recurrence of his work-related disability. The Board will affirm the October 27, 2008 Office decision.

LEGAL PRECEDENT -- ISSUE 2

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.³ 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.⁴

ANALYSIS -- ISSUE 2

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 with his request, a partial

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

⁴ *Howard A. Williams*, 45 ECAB 853 (1994).

transcript from a September 25, 1996 hearing, is not pertinent to the issue on appeal. It did not address the relevant issue of whether appellant sustained a recurrence of his employment-related disability as of June 1, 2008. 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.⁵ 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 appellant has not met his burden to establish that he was entitled to compensation for a recurrence of disability as of June 1, 2008 causally related to his accepted left shoulder condition. 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 January 26, 2009 and October 27, 2008 decisions of the Office of Workers' Compensation Programs be affirmed.

Issued: November 4, 2009
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

⁵ See *David J. McDonald*, 50 ECAB 185 (1998).