



On April 30, 2008 the Office advised appellant that it required additional factual and medical evidence to determine whether he was eligible for compensation benefits. It asked him 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 was causally related to his federal employment. The Office requested that appellant submit the additional evidence within 30 days.

By decision dated June 2, 2008, the Office denied appellant's claim, finding that he failed to submit sufficient medical evidence to establish that he sustained a low back injury on February 14, 2008, as alleged.

By letter dated June 30, 2008, appellant, through his attorney, requested a review of the written record. He submitted medical reports from Dr. Neville Alleyne, Board-certified in orthopedic surgery, dated September 26, 2007 through May 29, 2008. On February 25, 2008 Dr. Alleyne stated that he was treating appellant for low back pain subsequent to performing a decompressive laminectomy at L3 to S1 with bilateral medial facetectomies and foraminotomies on October 9, 2007. He related that appellant was doing well until February 14, 2008, when he got stuck in traffic for two hours and wound up being unable to move. Appellant had developed increasing back pain and left posterior thigh pain. Dr. Alleyne stated that appellant aggravated his lower back and his left leg and experienced numbness and tingling. Appellant asserted that it was difficult for him to perform his work because it was hard for him to do repetitive bending or lift any more than 10 pounds or drive for long periods.

In a May 29, 2008 report, Dr. Alleyne asserted that appellant's pain started to escalate on February 14, 2008 during the incident when he was stuck in traffic. Appellant believed that, due to the prolonged sitting, he experienced increasing discomfort into his lower back and left leg and noted that his symptoms had not resolved.

By decision dated October 6, 2008, an Office hearing representative affirmed the June 2, 2008 decision.

In a January 28, 2009 letter, appellant's attorney requested reconsideration.

By decision dated April 29, 2009, the Office denied modification of the October 6, 2008 decision.

By letter dated September 8, 2009, appellant's attorney requested reconsideration. He submitted reports from Dr. Alleyne dated June 23 and December 1, 2008. Dr. Alleyne essentially reiterated appellant's findings and conclusions. He stated that appellant had experienced increased discomfort into the middle and upper back and into his left leg. Dr. Alleyne related that appellant's lower back pain was aggravated by a February 14, 2008 vehicular accident. He advised that appellant had underlying asymptomatic stenosis that was aggravated by the use of an undersized car at work on July 2, 2001, which caused prolonged back problems and necessitated surgical intervention.

By decision dated November 30, 2009, the Office denied appellant's application for review on the grounds that it did not raise a substantive legal question or include new and relevant evidence sufficient to require further merit review.<sup>1</sup>

### **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 constituting relevant and pertinent evidence not previously considered by the Office.<sup>2</sup> 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.<sup>3</sup>

### **ANALYSIS**

Appellant has not shown that the Office erroneously applied or interpreted a specific point of law; advanced a relevant legal argument not previously considered by the Office; or submitted relevant and pertinent evidence not previously considered by the Office. The evidence appellant submitted in connection with his September 8, 2009 reconsideration request is not pertinent to the issue on appeal. None of the medical reports from Dr. Alleyne contain a probative, rationalized opinion indicating that appellant sustained an injury causally related to the February 14, 2008 work incident. The February 25 and May 29, 2008 reports from Dr. Alleyne were previously considered by the Office. On appeal, appellant's attorney argues that the Office erred in finding that the December 1, 2008 report from Dr. Alleyne did not constitute new and relevant medical evidence. Both the June 23 and December 1, 2008 reports from Dr. Alleyne repeated his opinion that appellant aggravated his low back symptoms while sitting in car traffic on February 14, 2008. Dr. Alleyne's reports are cumulative and repetitive of those which the Office considered in its previous decisions. 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.<sup>4</sup> Dr. Alleyne's reports did not present any additional evidence pertaining to the relevant issue of whether appellant sustained an injury in the performance of duty on February 14, 2008. 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.

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<sup>1</sup> The Office noted that appellant had filed a separate claim for the alleged July 2, 2001 work incident, claim number xxxxxx501, which the Office denied.

<sup>2</sup> 20 C.F.R. § 10.606(b)(1); *see generally* 5 U.S.C. § 8128(a).

<sup>3</sup> *Howard A. Williams*, 45 ECAB 853 (1994).

<sup>4</sup> *See David J. McDonald*, 50 ECAB 185 (1998).

**CONCLUSION**

The Board finds that the Office properly denied appellant's request for reconsideration under 5 U.S.C. § 8128(a).

**ORDER**

**IT IS HEREBY ORDERED THAT** the November 30, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 2, 2010  
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