

FACTUAL HISTORY

Appellant, a 51-year-old letter carrier, filed a Form CA-2 claim for benefits on August 28, 2008, alleging that he developed a right shoulder condition causally related to employment factors. OWCP accepted the claim for right rotator cuff tear, right rotator cuff impingement syndrome, aggravation of right shoulder osteoarthritis, right shoulder surgical repair.

On March 12, 2009 appellant filed a Form CA-7 claim for a schedule award based on a partial loss of use of his right upper extremity.

In order to determine whether appellant had any permanent impairment stemming from his accepted conditions, OWCP referred him to Dr. James F. Hood, Board-certified in orthopedic surgery, for a second opinion examination. In a November 23, 2009 report, Dr. Hood found that appellant had a 10 percent impairment of the right upper extremity pursuant to the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (sixth edition) (A.M.A., *Guides*).

In a November 25, 2009 report, an OWCP medical adviser agreed with Dr. Hood that appellant had a 10 percent impairment of the right upper extremity.

By decision dated December 4, 2009, OWCP granted appellant a schedule award for a 10 percent permanent impairment of the right upper extremity.²

On December 15, 2009 appellant requested a hearing, which was held on March 9, 2010. At the hearing, he asserted that he was entitled to a schedule award for the right upper extremity greater than that awarded because he underwent surgery for a right-sided carpal tunnel condition in 1997 which increased the overall amount of permanent impairment to his right upper extremity. Appellant was not able to ascertain whether OWCP accepted the condition of right-sided carpal tunnel syndrome.

By decision dated May 25, 2010, an OWCP hearing representative affirmed the December 4, 2009 decision.

By letter dated August 5, 2010, appellant requested reconsideration. He reiterated his previous contention that the amount of his schedule award should be greater because OWCP did not consider whether he had any additional permanent impairment due to his right-sided carpal tunnel condition.

By decision dated September 13, 2010, OWCP 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 OWCP to review its prior decision.

² OWCP noted that appellant had previously been granted an award for a nine percent right upper extremity impairment, also for right shoulder impairment, by decision dated May 25, 1999 under case number xxxxxx133. It stated that it was subtracting this nine percent award from the current schedule award.

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 OWCP erroneously applied or interpreted a specific point of law; by advancing a relevant legal argument not considered by OWCP; or by submitting relevant and pertinent evidence not previously considered by OWCP.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

Appellant has not shown that OWCP erroneously applied or interpreted a specific point of law; he has not advanced a relevant legal argument not previously considered by OWCP; and he has not submitted relevant and pertinent evidence not previously considered by OWCP. He contended that he was entitled to a greater schedule award for the right upper extremity because he underwent right-sided carpal tunnel surgery in 1997; however, he did not submit any documentation to support this assertion. Appellant did not submit any medical opinion evidence to support greater impairment. He did not provide any rationalized medical opinion pertinent to the relevant issue of whether he sustained more than 10 percent impairment of his right upper extremity. Appellant's reconsideration request failed to show that OWCP erroneously applied or interpreted a point of law or advance a point of law or fact not previously considered. OWCP did not abuse its discretion in refusing to reopen his claim for a review on the merits.

CONCLUSION

The Board finds that OWCP properly refused to reopen appellant's case for reconsideration on the merits of his claim under 5 U.S.C. § 8128(a).

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).

ORDER

IT IS HEREBY ORDERED THAT the September 13, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 17, 2011
Washington, DC

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

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

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