

**United States Department of Labor
Employees' Compensation Appeals Board**

A.C., Appellant)	
)	
and)	Docket No. 12-1866
)	Issued: January 23, 2013
SOCIAL SECURITY ADMINISTRATION,)	
Birmingham, AL, Employer)	
)	

Appearances:
Ronald S. Webster, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA HOWARD FITZGERALD, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On September 7, 2012 appellant, through her attorney, filed a timely appeal from a July 27, 2012 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). Because more than 180 days elapsed from the last merit decision dated July 29, 2011 to the filing of this appeal, the Board lacks jurisdiction to review the merits of her claim pursuant to 20 C.F.R. §§ 501.2(c) and 501.3.¹

ISSUE

The issue is whether OWCP properly refused to reopen appellant's case for reconsideration under 5 U.S.C. § 8128.

¹ For OWCP decisions issued prior to November 19, 2008, a claimant had one year to file an appeal. An appeal of OWCP decisions issued on or after November 19, 2008 must be filed within 180 days of the decision. 20 C.F.R. § 501.3(e) (2008).

FACTUAL HISTORY

On August 27, 2010 appellant, a 45-year-old teleservice representative, filed a Form CA-2 claim for benefits, alleging that she developed a left-sided carpal tunnel condition causally related to employment factors.

By decision dated December 13, 2010, OWCP denied the claim, finding that appellant failed to submit sufficient medical evidence to establish that her claimed condition was causally related to factors of her federal employment.

On January 10, 2011 appellant requested a hearing before the Branch of Hearings and Review.

In a deposition dated March 30, 2011, Dr. Robert Martinez, a Board-certified neurosurgeon, opined that appellant had right-sided carpal tunnel syndrome. He found that she had all of the applicable clinical symptoms on examination and that her right-sided carpal tunnel syndrome was causally related to factors of her employment, including repetitive typing and using a computer keyboard for eight hours.

By decision dated July 29, 2011, an OWCP hearing representative affirmed the December 13, 2010 decision.

By letter dated June 22, 2012, appellant, through her attorney, requested reconsideration. He stated that he would be submitting additional medical evidence with the request. OWCP, however, did not receive any new medical evidence.

By decision dated July 27, 2012, 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.

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 previously considered by OWCP; or by constituting relevant and pertinent evidence not previously considered by OWCP.² 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.³

ANALYSIS

In the present case, appellant has not shown that OWCP erroneously applied or interpreted a specific point of law; nor has she advanced a relevant legal argument not previously considered by OWCP. Although her letter requesting reconsideration indicated that new medical evidence would be submitted, the record does not reflect that any new medical evidence was

² 20 C.F.R. § 10.606(b). *See generally* 5 U.S.C. § 8128(a).

³ *Howard A. Williams*, 45 ECAB 853 (1994).

submitted. Appellant has not submitted any medical new evidence in support of her request for reconsideration.⁴ Her reconsideration request failed to show that OWCP erroneously applied or interpreted a point of law; it also failed to advance a point of law or fact not previously considered by OWCP.⁵ OWCP, therefore, did not abuse its discretion in refusing to reopen appellant's claim for a review on the merits.⁶

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the July 27, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 23, 2013
Washington, DC

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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

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

⁴ See *Patricia G. Aiken*, 57 ECAB 441 (2006).

⁵ The Board notes that appellant submitted another request for reconsideration following OWCP's July 27, 2012 decision. with another request for reconsideration.

⁶ The Board notes that appellant's attorney has filed a brief in support of her appeal. He contends that the instant claim for a left-sided carpal tunnel condition should be consolidated with a separate claim for a right-sided carpal tunnel condition which was accepted by OWCP. Counsel also contends, in essence, that the medical evidence is sufficient to establish a causal relationship between the claimed condition and employment factors and that the employing establishment placed her in a job which required her to exceed her physical limitations, which aggravated her claimed condition. As noted, the Board does not have jurisdiction to consider these contentions on appeal. Appellant may request that OWCP can consider these issues with his pending request for reconsideration before OWCP.