



## **FACTUAL HISTORY**

Appellant, a 62-year-old motor vehicle operator, filed a Form CA-1 claim for benefits on July 18, 2011, alleging that he injured his back, hands and knees while pushing and pulling linen carts on May 15, 2011.

By letter dated July 25, 2011, OWCP informed appellant that it required additional medical evidence in support of his claim. It requested that he submit the evidence within 30 days.

By decision dated August 26, 2011, OWCP denied the claim, finding that appellant failed to establish fact of injury.

On November 2, 2011 appellant requested reconsideration. By decision dated January 31, 2012, OWCP denied modification of the August 26, 2011 decision.

On December 26, 2012 appellant again requested that OWCP reconsider his case. He submitted additional medical evidence. In a January 17, 2012 report, Dr. John E. Grasinger, a specialist in orthopedic surgery, stated that appellant was experiencing bilateral knee pain with significant lesions in both the lateral and medial femoral condyles. He had moderate swelling in both knees with passive motion; there were mild effusions bilaterally. Dr. Grasinger stated that appellant worked in housekeeping and pushed 700-pound carts. He asserted that appellant would be unable to perform that job after joint replacement surgery due to his age, the wear and tear shown by a magnetic resonance imaging scan and the pain he experienced with walking. Dr. Grasinger recommended that appellant undergo a right knee replacement procedure.

In a February 7, 2012 report, received by OWCP on December 26, 2012, Dr. Grasinger stated that appellant was awaiting right total knee replacement surgery. He opined that it was medically probable that pushing heavy carts would aggravate degenerative joint disease.

By decision dated March 11, 2013, OWCP modified the January 31, 2012 decision. It found that appellant submitted sufficient factual evidence to establish the incident at work on May 15, 2011. It found, however, that he failed to submit sufficient medical evidence to establish that the incident resulted in a knee injury.

On November 12, 2013 appellant requested reconsideration of the March 11, 2013 decision. He did not submit any additional factual or medical evidence with his request.

By decision dated November 21, 2013, OWCP denied appellant's application for review on the grounds that it did not raise any substantive legal questions or include 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 considered by OWCP; or by constituting relevant and

pertinent evidence not previously considered by OWCP.<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**

In the present case, appellant has not shown that OWCP erroneously applied or interpreted a specific point of law; nor has he advanced a relevant legal argument not previously considered. Appellant did not submit any medical evidence in connection with his November 12, 2013 reconsideration request. He failed to submit any evidence pertinent to the issue on appeal; *i.e.*, whether he established that he sustained an injury in the performance of duty on May 15, 2011. 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. The Board finds that OWCP did not abuse its discretion by refusing to reopen appellant's claim for further review on the merits in its November 21, 2013 decision.

### **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).

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<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).

**ORDER**

**IT IS HEREBY ORDERED THAT** the November 21, 2013 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: August 22, 2014  
Washington, DC

Patricia Howard Fitzgerald, Acting Chief Judge  
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board

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