

FACTUAL HISTORY

On May 18, 2011 appellant, then a 44-year-old transportation security officer (screener), filed a traumatic injury claim alleging that he injured his right shoulder on April 23, 2011 while in the performance of duty.

In a decision dated September 20, 2012, OWCP accepted that the evidence was sufficient to establish a work incident on April 23, 2011. It denied appellant's claim, however, on the grounds that the medical opinion evidence lacked sufficient rationale to establish the element of causal relationship. OWCP found that the medical reports of appellant's physician, Dr. Wayne B. Bauerle, a Board-certified orthopedic surgeon, for the period September 28 through November 4, 2011 offered a history of the work incident and a secure diagnosis, but he did not explain how and why he felt that the incident caused the diagnosed condition or how the incident aggravated appellant's preexisting cervical condition.

In decisions dated November 15, 2012 and March 1, 2013, OWCP reviewed the merits of appellant's case and denied modification of its prior decision.

Appellant requested reconsideration. OWCP received his request on June 25, 2013. Appellant submitted a position description, general information obtained from the Internet about certain medical conditions and a June 11, 2013 report from Dr. Bauerle, which stated in its entirety: "With a reasonable degree of medical certainty, [appellant's] injury of April 23, 2011 to his right shoulder and neck is causally related to his work. Please see my attached dictation of September 28, 2011."

In a decision dated July 31, 2013, OWCP denied appellant's reconsideration request. It found that the evidence submitted to support the request was irrelevant, repetitious and cumulative.

LEGAL PRECEDENT

OWCP may review an award for or against payment of compensation at any time on its own motion or upon application.² An employee (or representative) seeking reconsideration should send the request for reconsideration to the address as instructed by OWCP in the final decision. The request for reconsideration, including all supporting documents, must be in writing and must set forth arguments and contain evidence that either: (1) shows that OWCP erroneously applied or interpreted a specific point of law; (2) advances a relevant legal argument not previously considered by OWCP; or (3) constitutes relevant and pertinent new evidence not previously considered by OWCP.³

A request for reconsideration must be received by OWCP within one year of the date of its decision for which review is sought.⁴ A timely request for reconsideration may be granted if

² *Id.* at § 8128(a).

³ 20 C.F.R. § 10.606.

⁴ *Id.* at § 10.607(a).

OWCP determines that the employee has presented evidence or argument that meets at least one of these standards. If reconsideration is granted, the case is reopened and the case is reviewed on its merits. Where the request is timely but fails to meet at least one of these standards, OWCP will deny the request for reconsideration without reopening the case for a review on the merits.⁵

ANALYSIS

OWCP received appellant's reconsideration request within one year of the most recent merit decision, namely, the March 1, 2013 decision denying modification of the denial of his injury claim. Appellant's request is therefore timely. The question for determination is whether that request met at least one of the standards for obtaining a merit review.

Appellant's request did not show that OWCP erroneously applied or interpreted a specific point of law. He did not identify a specific point of law and did not show how it erroneously applied or interpreted it. Appellant's request also did not advance a relevant legal argument not previously considered by OWCP. He offered no legal argument.

A claimant may be entitled to a merit review by submitting relevant and pertinent new evidence not previously considered by OWCP. Appellant submitted a position description, but this was not the reason OWCP denied his claim. OWCP denied his claim because his physician failed to provide sufficient medical rationale to establish that what happened at work on April 23, 2011 caused an injury. A copy of the position description does not supply the sound medical reasoning necessary to establish the critical element of causal relationship. The evidence is thus not relevant and pertinent.

Appellant also submitted general information obtained from the Internet about certain medical conditions. The Board has held, however, that evidence such as newspaper clippings, medical texts and excerpts from publications are of no evidentiary value in establishing the necessary causal relationship, as they are of general application and are not determinative of whether the relevant employment incident caused the specific condition claimed.⁶ This evidence is also not relevant and pertinent to the grounds upon which OWCP denied appellant's claim.

Finally, appellant submitted a June 11, 2013 report from Dr. Bauerle, who repeated his opinion that appellant's right shoulder and neck condition was causally related to his work. Dr. Bauerle still offered no medical rationale to support his opinion. The first page of his September 28, 2011 report, previously considered by OWCP, made no connection between appellant's work and his cervical and right arm condition other than a temporal history of events. The evidence does not discuss what happened on April 23, 2011 and what convinced Dr. Bauerle that the incident or event caused one of appellant's diagnosed medical conditions.

⁵ *Id.* at § 10.608.

⁶ *Gaetan F. Valenza*, 35 ECAB 763 (1984); *Kenneth S. Vansick*, 31 ECAB 1132 (1980).

Evidence that repeats or duplicates evidence already in the record has no evidentiary value and constitutes no basis for reopening a case.⁷

Accordingly, as appellant's reconsideration request did not meet any of the standards for reopening his case, the Board finds that OWCP properly denied his reconsideration request. The Board will affirm OWCP's July 31, 2013 decision.

CONCLUSION

The Board finds that OWCP properly denied appellant's reconsideration request.

ORDER

IT IS HEREBY ORDERED THAT the July 31, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 19, 2014
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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

⁷ *Eugene F. Butler*, 36 ECAB 393 (1984); *Bruce E. Martin*, 35 ECAB 1090 (1984).