

FACTUAL HISTORY

On March 6, 2014 appellant, a 28-year-old officer technician, filed a traumatic injury claim alleging that he sustained an injury in the performance of duty that day while manipulating his police motorcycle around a left-hand turn. He felt a twinge in his left forearm causing pain up into his shoulder.

In a decision dated May 2, 2014, OWCP denied appellant's claim. It found that the March 6, 2014 work incident occurred as alleged, but the medical evidence did not substantiate that the diagnoses of bicipital tendinitis, lateral epicondylitis, and nontraumatic rupture of the biceps tendon were caused or aggravated by the work incident.

On July 21, 2014 OWCP received appellant's appeal request form indicating that he was requesting reconsideration. Appellant attached a copy of OWCP's May 2, 2014 decision.

In a decision dated October 2, 2014, OWCP denied appellant's request to reopen his case for a merit review. It found that his request neither raised substantive legal question nor included new and relevant evidence.

On appeal, appellant states that, after OWCP denied his claim on May 2, 2014, he submitted supplemental paperwork from his physician on June 6, 2014 explaining how he injured his arm on the job.

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 OWCP's decision for which review is sought.⁴ A timely request for reconsideration may be granted if 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

² 5 U.S.C. § 8128(a).

³ 20 C.F.R. § 10.606.

⁴ *Id.* at § 10.607(a).

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 calendar year of the most recent merit decision in his case, namely, its May 2, 2014 decision denying his traumatic 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 of his case.

Appellant's request did not show that OWCP erroneously applied or interpreted a specific point of law. The request did not advance a relevant legal argument not previously considered by OWCP. A claimant may be entitled to a merit review by submitting relevant and pertinent new evidence not previously considered by OWCP, but OWCP received no evidence supporting his request.

Appellant informs the Board that he did, in fact, submit supplemental paperwork from his physician on the issue of causal relationship, but the record does not show that OWCP received this evidence. The record shows, however, only that OWCP received his appeal request form and the attached copy of its May 2, 2014 initial decision.

Accordingly, as appellant's reconsideration request did not meet any of the standards for reopening his case, the Board finds that he is not entitled to a merit review. The Board will therefore affirm OWCP's October 2, 2014 decision denying his request.

CONCLUSION

The Board finds that appellant's reconsideration request did not meet at least one of the standards for obtaining a merit review of his case. Thus, OWCP properly declined to reopen his case for further consideration of the merits of his claim, pursuant to 5 U.S.C. § 8128(a).

⁵ *Id.* at § 10.608.

ORDER

IT IS HEREBY ORDERED THAT the October 2, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 2, 2015
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