



## **FACTUAL HISTORY**

This is the second appeal before the Board. On April 2, 2009 appellant, a 46-year-old customer service supervisor, filed a claim for benefits, alleging that she strained her back, her left thigh, and both knees while lifting trays and tubs of mail on March 13, 2009.

Appellant submitted medical records indicating that she had a history of low back pain in addition to numbness and paresthesias in the distal lower extremities. She submitted form reports dated April 7 and 9, 2009 from Dr. Main Coppel, a Board-certified anesthesiologist specializing in pain management, who advised that she had experienced a new onset of spinal pain and bilateral lower extremity radiculopathy and bilateral knee pain which began after her March 13, 2009 work injury. He stated, however, that he believed that she was exaggerating her complaints of pain during her physical examination. Dr. Coppel diagnosed cervical facet syndrome, thoracic facet syndrome, lumbar facet syndrome, lumbar radiculopathy, and knee pain and checked a box indicating that appellant's condition was due to an injury arising out of her employment.

In a decision dated May 13, 2009, OWCP denied appellant's claim, finding that she failed to submit medical evidence sufficient to establish that the claimed medical condition was related to the established work-related event. By decision dated December 30, 2009, an OWCP hearing representative affirmed the May 13, 2009 decision. It denied reconsideration in a nonmerit decision dated September 30, 2010. In decisions dated January 5 and July 6, 2011, OWCP denied modification of the May 13, 2009 decision. In a March 23, 2012 decision,<sup>2</sup> the Board affirmed the July 6, 2011 decision. The complete facts of this case are set forth in the Board's March 23, 2012 decision and are herein incorporated by reference.

By letter dated May 3, 2012, appellant requested reconsideration.

In a January 12, 2010 report, received by OWCP on February 11, 2013, Dr. Jimmy J. Novero, Board-certified in neurology, stated that appellant was experiencing low back pain, numbness in her feet, and weakness in her lower extremities. He advised that her physical findings were consistent with a peripheral neuropathy, with sensory loss in her distal lower extremities, decreased symmetrical reflexes, and mild-to-moderate weakness on the left lower extremity. Dr. Novero opined that appellant had peripheral neuropathy based on her symptoms, examination findings, and diagnostic tests, in addition to low back pain which could be due to radiculopathy worsened by heavy lifting.

In an April 18, 2012 report, received by OWCP on February 11, 2013, Dr. Siamek Rouzroch, Board-certified in internal medicine, stated that he had been treating appellant since 2010 and that she sustained an injury while lifting heavy tubs and trays of mail. He advised that she injured her back, both knees, and left thigh and was diagnosed with back sprain and lumbar radiculopathy/sciatica which aggravated an August 25, 2008 lumbar radiculopathy injury. Dr. Rouzroch stated that appellant also sustained a bilateral knee sprain and left thigh sprain due to the March 13, 2009 heavy lifting injury. He noted that she had undergone a magnetic resonance imaging (MRI) scan in 2010.

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<sup>2</sup> Docket No. 11-2007 (issued March 23, 2012).

In a May 8, 2013 report, Dr. Rouzroch reiterated his previous findings and conclusions. He noted that appellant had injured her back, both knees, and left thigh due to heavy lifting on March 13, 2009 and had been diagnosed with the following conditions: cervical facet syndrome, lumbar facet syndrome, thoracic facet syndrome, lumbar radiculopathy, knee pain, and back sprain-lumbar radiculopathy/sciatica. Dr. Rouzroch reiterated that this exacerbated a previous lumbar radiculopathy injury which occurred on August 25, 2008. He advised again that the March 13, 2009 heavy lifting injury aggravated the lumbar radiculopathy stemming from her August 25, 2008 injury. He advised that she was currently medically disabled.

On June 19, 2013 OWCP denied modification of the prior decision.

By letter dated June 17, 2014, appellant requested reconsideration. She stated that her reconsideration request was based upon a legal argument. Appellant stated that OWCP had not considered her medical evidence collectively. She explained that she had prior injuries, including to the lower back, but that prior claims had been denied; therefore, she had focused her explanation of injury on her current injury and did not mention her previous injuries to her doctors. Appellant concluded that she had sustained a new injury to her back and knees. She did not submit any additional medical evidence.

By decision dated August 13, 2014, 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 considered by OWCP; or by constituting relevant and pertinent evidence not previously considered by OWCP.<sup>3</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>4</sup>

### **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.

Appellant requested reconsideration and stated that she was presenting a new legal argument. However, appellant merely summarized her own understanding of the medical evidence of record. The Board has previously held that an appellant's lay opinion does not

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<sup>3</sup> 20 C.F.R. § 10.606(b)(1); *see generally* 5 U.S.C. § 8128(a).

<sup>4</sup> *Howard A. Williams*, 45 ECAB 853 (1994).

constitute new evidence or relevant legal argument and is not sufficient to require OWCP to reopen the claim.<sup>5</sup>

Appellant did not submit any new evidence in support of her reconsideration request. Her reconsideration request failed to show that OWCP erroneously applied or interpreted a point of law nor did it advance a point of law or fact not previously considered by OWCP. OWCP did not abuse its discretion in refusing to reopen appellant's claim for a review on the merits in its August 13, 2014 decision.

### **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 August 13, 2014 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: April 15, 2015  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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<sup>5</sup> J.S., Docket No. 09-2122 (June 14, 2010).