

FACTUAL HISTORY

On January 16, 2014 appellant, then a 57-year-old parcel post machine operator, filed an occupational disease claim alleging carpal tunnel syndrome due to the performance of duty. She claimed that repetitive hand motions while keying information on various machines caused her condition. Appellant stopped work on January 7, 2014 and returned to work on January 13, 2014.

In a February 13, 2014 report, Dr. David Rhodes, a Board-certified orthopedic surgeon, advised that appellant worked for the employing establishment for the past 20 years and had been experiencing pain, numbness, and tingling in the upper extremity for the past two years which progressively worsened over the past month. On physical examination he noted atrophy in the thenar area, decreased sensation to light touch in the radial and ulnar nerve distribution, full range of motion of the fingers, 5/5 muscle strength, positive Phalen's sign, positive Tinel's over carpal tunnel, and no edema or erythema. Dr. Rhodes advised that right hand x-rays revealed radial styloid joint narrowing. He noted that a nerve conduction study of the right extremity would be conducted to rule out nerve impingement.

By letter dated March 11, 2014, OWCP notified appellant that evidence was insufficient to establish her claim. Appellant was advised of the type of factual and medical evidence needed to establish her claim.

In a March 6, 2014 diagnostic report, Dr. Abdel-Rahman Saleh, a Board-certified neurologist, advised that a nerve conduction study revealed severe carpal tunnel syndrome.

In a March 13, 2014 report, Dr. Rhodes advised that appellant was still experiencing pain and numbness and that a nerve conduction study showed severe right carpal tunnel syndrome. He made the same findings on examination diagnosed severe right median nerve impingement at the wrist and recommended a medial nerve decompression at the wrist.

In an April 9, 2014 statement, appellant advised that for the past 20 years she had worked on several machines that required repeated motion of the wrists and hands and keying information on various machines. She noted that two years prior she began to feel symptoms intermittently, but beginning in January 2014 she started experiencing continuous tingling and numbness. OWCP also received a copy of appellant's job description.

By decision dated April 21, 2014, OWCP denied appellant's claim because the medical evidence was insufficient to establish that the diagnosed condition was causally related to the factors of her employment.

Appellant requested reconsideration on September 26, 2014.³ Accompanying the request, she submitted a summary sheet of duties for a small parcel bundle sorter clerk. The summary sheet had a handwritten notation further describing certain duties.

³ The request was dated June 17 and September 17, 2014.

By decision dated December 17, 2014, OWCP denied appellant's request for reconsideration without a merit review.

On appeal appellant reiterated that she has keyed information into machines at the employing establishment for the past 20 years. She also noted that her attending physician diagnosed her with carpal tunnel syndrome and recommended surgery.

LEGAL PRECEDENT

To require OWCP to reopen a case for merit review under section 8128(a) of FECA, OWCP regulations provide that the evidence or argument submitted by a claimant must either: (1) show that OWCP erroneously applied or interpreted a specific point of law; (2) advance a relevant legal argument not previously considered by OWCP; or (3) constitute relevant and pertinent new evidence not previously considered by OWCP.⁴ Where the request for reconsideration fails to meet at least one of these standards, OWCP will deny the application for reconsideration without opening the case for a review of the merits.⁵

ANALYSIS

In a December 17, 2014 merit decision, OWCP denied appellant's claim because medical evidence did not establish that the diagnosed condition was causally related to the work incident. Appellant submitted a timely request for reconsideration received by OWCP on September 26, 2014, which was denied without a merit review.

The Board finds that OWCP correctly denied appellant's request for reconsideration without further merit review. The issue in this case is whether appellant established that her daily work duties caused or contributed to her diagnosed medical condition. This is a medical issue for which Dr. Rhodes or other medical professions needed to provide a rationalized opinion. OWCP's December 17, 2014 decision informed appellant that the medical evidence was insufficient to establish that her claimed condition was caused by her employment. In support of her reconsideration request, appellant submitted a summary sheet of duties for a small parcel bundle sorter clerk. This evidence concerns her work duties, but it is not relevant to the underlying medical issue in the claim.⁶ Appellant did not submit any new medical evidence on the cause of her claimed condition.

Aside from this lack of evidence, appellant failed to show that OWCP erroneously applied or interpreted a specific point of law. She also failed to advance a relevant legal argument not previously considered by OWCP. Because appellant failed to meet one of the standards enumerated under the regulations at 20 C.F.R. § 10.606(b)(3), she was not entitled to further merit review of her claim.

⁴ *E.K.*, Docket No. 09-1827 (issued April 27, 2010). *See* 20 C.F.R. § 10.606(b)(3).

⁵ *L.D.*, 59 ECAB 648 (2008). *See* 20 C.F.R. *id.*

⁶ *See J.P.*, 58 ECAB 289 (2007) (evidence that does not address the particular issue involved does not constitute a basis for reopening a case).

On appeal appellant argued that the medical evidence supported her claim, but the Board does not have jurisdiction over the merits of the claim. Because she failed to meet any of the three regulatory criteria for reopening a claim, she was not entitled to further merit review of her claim.

CONCLUSION

The Board finds that OWCP properly refused to reopen appellant's case for further review of the merits pursuant to 5 U.S.C. § 8128(a).

ORDER

IT IS HEREBY ORDERED THAT the December 17, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 11, 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