

FACTUAL HISTORY

On June 16, 2012 appellant, then a 51-year-old nursing assistant, filed a traumatic injury claim alleging that she sustained an injury in the performance of duty when she slipped on a wet floor that day and fell on her right side. She was diagnosed with sciatica and lumbar strain by Gail Kane, LNP, on June 18, 2012. No physician counter-signed the medical record.

In a decision dated August 13, 2012, OWCP denied appellant's traumatic injury claim. It found that she had established that events occurred as described, but she did not submit any medical evidence containing a medical diagnosis in connection with the events.

Appellant filed a request for reconsideration on June 20, 2013 and she submitted additional evidence in support of her claim.

OWCP reviewed the merits of appellant's claim on September 19, 2013 and denied modification of its prior decision. It found that additional medical was insufficient to cure the deficiency previously found.

Appellant completed an appeal request form on March 18, 2014. With a mark, she indicated that she was requesting reconsideration. Appellant signed and dated the form. OWCP received this request on March 24, 2014.

In a decision dated April 17, 2014, OWCP denied appellant's reconsideration request without reopening her case for a review on the merits. It found that her request neither raised substantive legal questions nor included new and relevant evidence.

On appeal, appellant explains that she has been very sick, disabled, and in acute pain since 2012. She confesses that she does not know what she was doing with all this paperwork; she was denied too many times. Appellant hopes that she is doing the right thing this time.

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 decision for which review is sought.⁴ A timely request for reconsideration may be

² *Id.* at § 8128(a).

³ 20 C.F.R. § 10.606.

⁴ *Id.* at § 10.607(a).

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 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 in her case, namely, OWCP's April 17, 2014 decision denying modification of its earlier decision to deny her traumatic injury claim. Appellant's request is therefore timely. The question for determination is whether her request met at least one of the standards for obtaining a merit review of her case.

Appellant's reconsideration request did not show that OWCP erroneously applied or interpreted a specific point of law.

Appellant's appeal request form only showed a mark that she was requesting reconsideration. The request did not advance a relevant legal argument not previously considered by OWCP. The request did not contain relevant and pertinent new evidence not previously considered by OWCP. Such an unsupported request is insufficient, on its face, to warrant reopening appellant's case for a review on the merits.

As appellant's reconsideration request did not meet any of the standards for reopening her case, the Board finds that OWCP properly denied a merit review. The Board will therefore affirm OWCP's April 17, 2014 decision.

CONCLUSION

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

⁵ *Id.* at § 10.608.

ORDER

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

Issued: February 3, 2015
Washington, DC

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

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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