

indicated that he first became aware of this condition and that it was related to his work activities as of April 1, 2008.

In a report dated August 25, 2010, Dr. Joseph M. Hayes, a chiropractor, stated that appellant had continually complained of being injured and reinjured while bending and twisting while at work and had myofascial pain caused by repetitive stress. He related that he recommended that appellant change his workstation so as to minimize his exacerbations. On examination Dr. Hayes noted motion palpation in addition to soft tissue discomfort. His examination showed areas of myofascial restrictions and multiple areas of spinal subluxation, which were documented by plain films of his pelvis and lumbar spine. Dr. Hayes advised that appellant had responded well to treatment although he continued to experience spinal pain and pain in his upper and lower extremities. He stated that he was attempting to decrease the frequency of his treatments; however, appellant continued to experience exacerbations at work.

On August 6, 2010 OWCP advised appellant that it required factual and medical evidence to determine whether he was eligible for compensation benefits. It asked appellant to submit a comprehensive report from his treating physician describing his symptoms and the medical reasons for his condition, an opinion as to whether his claimed condition was causally related to his federal employment. OWCP requested that appellant submit this evidence within 30 days.

By decision dated October 21, 2010, OWCP denied appellant's claim, finding that he failed to submit sufficient medical evidence to establish that his claimed back condition was causally related to his work duties.

By letter dated November 22, 2010, appellant requested reconsideration.

In an x-ray report dated August 25, 2010, received by OWCP on November 29, 2010, it was indicated that appellant was experiencing low back pain but had no subluxation.

By decision dated February 25, 2011, OWCP denied modification of the October 21, 2010 decision.

By letter dated January 25, 2012, appellant requested reconsideration.

In an x-ray report dated January 10, 2012, received by OWCP on January 30, 2012, it was indicated that appellant had a spinal subluxation at L2-3. The report did not indicate whether this diagnosis was causally related to appellant's claimed back condition.

By decision dated May 10, 2012, OWCP denied modification of the October 21, 2010 decision.

In a May 1, 2013 report, Dr. Hayes stated that appellant had sought treatment for low, midback and multiple areas of joint pain. He advised that an x-ray report showed pelvic and lumbar subluxation. Dr. Hayes opined that appellant's complaints of pain were consistent with his work activities. Appellant had consistently complained of aggravations due to bending while lifting and transporting mail sacks and trays and lifting and various pulling of mail containers. Dr. Hayes advised that his areas of muscle hypertonicity and continued spinal pain and subluxation were consistent with his present complaints. He related that appellant also had been

required to stand for his shifts and had asked for accommodations to sit. However, Dr. Hayes was told that this would not be allowed. He reiterated that this would continue to aggravate his pelvic and lumbar subluxation, which led to continued and increased pain.

Dr. Hayes opined that appellant's 2010 x-ray confirmed his initial diagnosis. He stated that appellant had consistently complained of exacerbation due to the repetitive nature of his job and reiterated that a review of his work history showed a correlation with increased pain and aggravation due to his job activities.

By letter dated May 7, 2013, appellant requested reconsideration.

By decision dated June 13, 2013, OWCP denied modification.

By letter dated June 4, 2014, appellant requested reconsideration.

In a report dated June 4, 2014, Dr. Hayes reiterated his previous findings and conclusions. He stated that, at the time of his initial injury on April 1, 2008, appellant sustained an injury while pushing and pulling heavy containers of mail, and bending to pick up packages and sacks of mail weighing approximately 50 pounds and containers weighing up to 1,000 pounds. Dr. Hayes stated that appellant exacerbated his pelvic and lumbar subluxation as a direct result of his work duties. He based this opinion on the fact that appellant noted no other activities that would cause the exacerbation of the subluxation and had experienced several incidents of increased pain with decreased care and increased work activity.

By decision dated September 23, 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 submitting relevant and pertinent evidence not previously considered by OWCP.² 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.³

ANALYSIS

In the present case, appellant has not shown that OWCP erroneously applied or interpreted a specific point of law, nor has he advanced a relevant legal argument not previously considered by it. Appellant submitted the June 4, 2014 report from Dr. Hayes.

² 20 C.F.R. § 10.606(b)(1); *see generally* 5 U.S.C. § 8128(a).

³ *Howard A. Williams*, 45 ECAB 853 (1994).

The Board has held that the submission of evidence which does not address the particular issue involved in the case does not constitute a basis for reopening the claim.⁴ Appellant's claim was denied because he did not submit medical evidence which explained, with medical rationale, how appellant's employment duties caused the diagnosed conditions. The evidence appellant submitted in connection with his June 4, 2014 reconsideration request is not pertinent to the issue on appeal; *i.e.*, whether he submitted medical evidence sufficient to establish that he sustained a back condition causally related to factors of his employment. Dr. Hayes' report merely reiterates the findings and conclusions he made in his previous reports. This report is, therefore, cumulative and duplicative.⁵

Appellant's reconsideration request failed to show that OWCP erroneously applied or interpreted a point of law, and failed to 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 September 23, 2014 decision.

CONCLUSION

The Board finds that OWCP properly refused to reopen appellant's case for reconsideration on the merits of his claim under 5 U.S.C. § 8128(a).

ORDER

IT IS HEREBY ORDERED THAT the September 23, 2014 decision of the Office of Workers' Compensation Programs be affirmed.⁶

Issued: March 28, 2016
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

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

⁴ See *David J. McDonald*, 50 ECAB 185 (1998).

⁵ See *Patricia G. Aiken*, 57 ECAB 441 (2006).

⁶ James A. Haynes, Alternate Judge, participated in the original decision but was no longer a member of the Board effective November 16, 2015.