

FACTUAL HISTORY

On February 10, 2016 appellant, then a 60-year-old medical support assistant, filed an occupational disease claim (Form CA-2) alleging that she sustained bilateral carpal tunnel syndrome as a result of repetitive chart preparation. She first became aware of her condition and of its relationship to factors of her federal employment on May 1, 2014. The claim form did not indicate that appellant stopped work.

In an incident report dated May 1, 2014, a supervisor noted that appellant had experienced pain and numbness in her hands, and that her duties had been changed as a corrective action.

By letter dated March 16, 2016, OWCP informed appellant of the evidence needed to establish her claim, and noted that she had not submitted sufficient evidence to establish her claim. It afforded her 30 days to submit additional evidence to the record and to respond to its inquiries.

Appellant submitted a narrative statement dated March 21, 2016 describing her federal employment duties alleged to have caused her condition, noting that her duties had changed in May 2014 requiring preparation of more pages per chart for each patient.

In a letter dated March 15, 2016, Dr. Timothy Kleinschmidt, a Board-certified internist, diagnosed appellant with bilateral carpal tunnel syndrome. He stated that she worked with medical records, involving sorting and preparation of charts with hundreds of sheets of paper per day. Appellant experienced increased numbness, pain, and lack of coordination during this activity. Dr. Kleinschmidt suggested that she undergo electromyography (EMG) testing. He noted that appellant's onset of symptoms was on May 1, 2014 and opined that "this is likely occupation related." Dr. Kleinschmidt further related that she required surgical consultation.

By decision dated May 4, 2016, OWCP denied appellant's claim for compensation. It found that she had not submitted sufficient medical evidence to establish causal relationship between her accepted federal employment duties and her claimed carpal tunnel syndrome.

By letter dated May 21, 2016, received by OWCP on May 31, 2016, appellant requested reconsideration of the May 4, 2016 OWCP decision. With her request, appellant attached a letter that referred to a May 19, 2016 letter from Dr. Kleinschmidt, a report from a Dr. Wallerstein, and results of EMG testing. However, none of these documents were received by OWCP.

By decision dated September 28, 2016, OWCP denied appellant's request for reconsideration. It found that she had not submitted any evidence or legal arguments not previously considered in support of her request. OWCP noted that the documents that appellant referred to in her request were not received by OWCP.

LEGAL PRECEDENT

To require OWCP to reopen a case for merit review under section 8128(a), OWCP's regulations provide that the evidence or argument submitted by a claimant must: (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.² Section 10.608(b) of OWCP's regulations provide that when an application for reconsideration does not meet at least one of the three requirements enumerated under section 10.606(b)(3), OWCP will deny the application for reconsideration without reopening the case for a review on the merits.³

ANALYSIS

The Board finds that OWCP properly denied appellant's request for reconsideration, without further merit review of the claim.

With her May 21, 2016 request for reconsideration appellant attached a letter that referred to a May 19, 2016 letter from Dr. Kleinschmidt, a report from a Dr. Wallerstein, and results of EMG testing.

Appellant did not show that OWCP erroneously applied or interpreted a specific point of law, or advance a new and relevant legal argument not previously considered. Thus, she is not entitled to a review of the merits of her claim based on the first and second above-noted requirements under section 10.606(b)(3).

The underlying issue is whether appellant has submitted sufficient well-rationalized medical evidence to establish a causal relationship between her claimed carpal tunnel syndrome and duties of her federal employment. A claimant may be entitled to a merit review by submitting pertinent new and relevant evidence, but appellant did not submit any such evidence in this claim. In her request for reconsideration, appellant referred specifically to reports from Dr. Kleinschmidt, Dr. Wallerstein, and results of EMG testing. However, as OWCP noted, none of these reports were received. As such, appellant did not submit any medical evidence on reconsideration relevant to the underlying reason her claim was denied on May 4, 2016, and did not meet any of the requirements to warrant reconsideration of her claim.

The Board accordingly finds that appellant did not meet any of the requirements of 20 C.F.R. § 10.606(b)(3). Pursuant to 20 C.F.R. § 10.608, OWCP properly denied merit review.

CONCLUSION

The Board finds that OWCP properly denied appellant's request for reconsideration of the merits of her claim pursuant to 5 U.S.C. § 8128(a).

² 20 C.F.R. § 10.606(b)(3); *D.K.*, 59 ECAB 141, 146 (2007).

³ *Id.* at § 10.608(b); *see K.H.*, 59 ECAB 495, 499 (2008).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated September 28, 2016 is affirmed.

Issued: August 2, 2017
Washington, DC

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

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

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board