



October 10, 2017 when he first realized his condition was caused or aggravated by factors of his federal employment. Appellant continued to work at the time he filed his Form CA-2.

On October 25, 2017 OWCP issued a development letter noting deficiencies with respect to both the factual and medical evidence and advising appellant to submit additional documentation. In regards to the medical evidence, it explained that the claim required a valid diagnosis and a physician's opinion explaining how the employment activities caused, contributed to, or aggravated appellant's medical condition. With regard to the factual evidence, OWCP attached a questionnaire requesting that appellant describe in detail the employment-related activities he believed contributed to his condition, including how often he performed those activities and the duration on each occasion. It also asked him to describe his nonwork activities. OWCP afforded appellant 30 days to submit the requested factual information and medical evidence.

In an October 31, 2017 statement, appellant indicated that he had been delivering mail for 35½ years and normally worked an 8-hour day, but could work up to 12 hours daily. His responsibilities included: simple grasping and pushing/pulling letters, magazines, and small/large packages 8 to 10 hours per day; driving a vehicle 6 to 8 hours per day; picking up, routing, and delivering mail/packages 8 to 10 hours per day; and fine manipulation of sale papers, advertising cards, and political cards intermittently 3 to 4 hours per day. Appellant also indicated that over the past few years he gained an account from an on-line retailer that increased three to four times the amount of grasping and pushing/pulling of packages.<sup>2</sup>

In response to the development letter, appellant submitted medical documentation from Dr. Mark Tyson Garon, a Board-certified orthopedic hand surgeon. On April 20, 2017 Dr. Garon reviewed an x-ray of the same date of appellant's right middle finger, which showed evidence of periarticular erosions consistent with gout, but otherwise there was no evidence of acute fracture, subluxation, or dislocation. In his April 20, 2017 narrative report, he noted a chief complaint of right middle finger swelling. Dr. Garon also identified a "July 2016" date of injury when appellant reportedly "jammed" his finger "while playing golf." His diagnostic impression was right middle finger proximal interphalangeal (PIP) joint pain and swelling. Dr. Garon reviewed various treatment options, including steroid injections, which appellant declined at the time.

On September 29, 2017 Dr. Garon also reviewed a right wrist x-ray, taken on the same date, which he noted showed some closure of the joint space of the triquetrohamate joint, and some cyst and subchondral sclerosis at the lunotriquetral joint. In a separate September 29, 2017 narrative report, he noted chief complaints of right wrist pain, right hand numbness and tingling, and right thumb locking, with an onset of symptoms a "couple of months ago." Appellant reported that he was getting back to playing golf and had started developing some ulnar-sided wrist pain, as well as some numbness and tingling in the right hand and locking in his right thumb. This all happened over the past couple of months and was interfering with appellant's golf game. Dr. Garon diagnosed right middle finger PIP joint pain, right trigger thumb, right carpal tunnel syndrome, and right triquetrohamate impaction syndrome versus lunotriquetral arthritis. He administered a series of corticosteroid injections to appellant's right wrist/hand and thumb. Dr. Garon also provided appellant a wrist brace to wear at night for his carpal tunnel syndrome.

---

<sup>2</sup> In a November 9, 2017 letter, the employing establishment noted, *inter alia*, that city carriers do not push and pull for 8 to 10 hours daily and that overtime was optional.

By decision dated January 12, 2018, OWCP denied appellant's claim finding that appellant had not met his burden of proof to establish causal relationship. It explained that Dr. Garon had not provided a well-reasoned medical opinion as to how appellant's right hand/wrist conditions were either caused or aggravated by his federal employment duties.

On April 24, 2018 appellant timely requested reconsideration. He submitted a March 2, 2018 narrative report from Dr. Garon. Dr. Garon continued to diagnose right trigger thumb, right carpal tunnel syndrome, and right triquetrohamate impaction syndrome versus lunotriquetral arthritis. Appellant reported that the previous right hand injections had helped significantly. His wrist pain and thumb locking had decreased, and the numbness and tingling also improved. However, appellant returned because the thumb locking resumed. Dr. Garon described the impact appellant's right hand/wrist symptoms had on his golf swing, and noted that appellant reported he had these problems for a long time as he is a mail carrier. He further indicated that "[appellant] believes that the repetitive gripping and grasping mail, as well as carrying mail, has attributed [sic] to some of these symptoms." Appellant also reported that "after a long day of work these symptoms worsen and he has given up doing overtime..." Lastly, Dr. Garon noted appellant reported that he is "frequently grasping and gripping mail, which causes his thumb to lock more." He discussed various treatment options, and appellant opted to receive additional corticosteroid injections, which Dr. Garon administered that day. Appellant reportedly planned to play golf on his way home to see if his pain was any better. Dr. Garon advised appellant to return for follow-up in three months.

On May 7, 2018 OWCP denied appellant's request for reconsideration finding that the evidence submitted in support of reconsideration was insufficient to warrant further merit review. Specifically, it found that Dr. Garon's March 2, 2018 report was cumulative and substantially similar to his April 20 and September 29, 2017 reports. OWCP further noted that the latest report did not contain a medical opinion as to the relationship, if any, between appellant's right hand condition and the accepted employment exposure.

### **LEGAL PRECEDENT**

Section 8128(a) of FECA does not entitle a claimant to review of an OWCP decision as a matter of right.<sup>3</sup> OWCP has discretionary authority in this regard and has imposed certain limitations in exercising its authority.<sup>4</sup> One such limitation is that the request for reconsideration must be received by OWCP within one year of the date of the decision for which review is sought.<sup>5</sup> A timely application for reconsideration, including all supporting documents, must set forth arguments and contain evidence that either: (i) shows that OWCP erroneously applied or interpreted a specific point of law; (ii) advances a relevant legal argument not previously considered by OWCP; or (iii) constitutes relevant and pertinent new evidence not previously

---

<sup>3</sup> This section provides in pertinent part: "[t]he Secretary of Labor may review an award for or against payment of compensation at any time on his own motion or on application." 5 U.S.C. § 8128(a).

<sup>4</sup> 20 C.F.R. § 10.607.

<sup>5</sup> *Id.* at § 10.607(a). For merit decisions issued on or after August 29, 2011, a request for reconsideration must be "received" by OWCP within one year of OWCP's decision for which review is sought. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4 (February 2016). Timeliness is determined by the document receipt date of the request for reconsideration as indicated by the "received date" in the integrated Federal Employees' Compensation System (iFECS). *Id.* at Chapter 2.1602.4b.

considered by OWCP.<sup>6</sup> When a timely application for reconsideration does not meet at least one of the above-noted requirements, OWCP will deny the request for reconsideration without reopening the case for a review on the merits.<sup>7</sup>

### ANALYSIS

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

Although appellant timely requested reconsideration, he neither alleged nor demonstrated that OWCP erroneously applied or interpreted a specific point of law. Additionally, he did not advance relevant legal arguments not previously considered by OWCP. Accordingly, the Board finds that appellant is not entitled to a review of the merits based on either the first or second requirements under 20 C.F.R. § 10.606(b)(3).

The Board further finds that appellant did not fulfill the third requirement under 20 C.F.R. § 10.606(b)(3) because he did not submit relevant and pertinent new evidence not previously considered by OWCP. The underlying issue in this case is whether appellant submitted sufficient medical evidence establishing that his right hand/wrist conditions were causally related to his accepted factors of his federal employment. In support of his April 24, 2018 request for reconsideration, appellant submitted a new report from Dr. Garon dated March 2, 2018.

In his March 2, 2018 report, Dr. Garon continued to diagnose right trigger thumb, right carpal tunnel syndrome, and right triquetrohamate impaction syndrome *versus* lunotriquetral arthritis, and he administered additional corticosteroid injections. This report essentially reiterated the evidence already of record. Evidence or argument that repeats or duplicates evidence already in the case record does not constitute a basis for reopening a case.<sup>8</sup>

Dr. Garon's March 2, 2018 report included additional details regarding appellant's history of injury/illness. He noted, *inter alia*, that appellant reported having had right wrist/hand problems for a long time as he was a mail carrier. Dr. Garon also noted that appellant believed that repetitive gripping and grasping mail, as well as carrying mail contributed to some of his symptoms, including causing his right thumb to lock more. While the above-noted details were not included in his two prior reports, other than reporting appellant's beliefs as to the cause of his right hand/wrist symptoms, Dr. Garon did not provide an opinion on causal relationship. Although evidence submitted on reconsideration need not carry appellant's burden entirely to suffice for reconsideration, the new evidence must at least be relevant and pertinent to the issue upon which the claim was denied.<sup>9</sup> While this evidence is new, it does not address the relevant issue in this claim regarding causal relationship, by providing an opinion regarding the cause of the diagnosed

---

<sup>6</sup> *Id.* at § 10.606(b)(3).

<sup>7</sup> *Id.* at § 10.608(a), (b).

<sup>8</sup> A.A., Docket No. 18-0031 (issued April 5, 2018).

<sup>9</sup> *See id.*; K.B., Docket No. 18-1392 (issued January 15, 2019).

conditions.<sup>10</sup> Therefore, appellant also failed to satisfy the third requirement under 20 C.F.R. § 10.606(b)(3).

The Board finds that appellant has not met any of the requirements of 20 C.F.R. § 10.606(b)(3) in his April 24, 2018 request for reconsideration. Pursuant to 20 C.F.R. § 10.608, OWCP properly denied merit review.

**CONCLUSION**

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

**ORDER**

**IT IS HEREBY ORDERED THAT** the May 7, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 22, 2019  
Washington, DC

Christopher J. Godfrey, 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

---

<sup>10</sup> *R.B.*, Docket No. 18-0898 (issued January 15, 2019).