

employment dating back to 1973, which included daily exposure to fuel and fumes while in the performance of duty. He identified June 20, 2008 as the date he first realized his condition and its relationship to factors of his federal employment. Appellant further indicated that his 2013 employee medical records revealed that he was disabled from work. He voluntarily retired, effective December 31, 2013.

In response to its January 15, 2014 development letter, OWCP received additional factual and medical evidence, which included employing establishment treatment records from January 29, 1999 when appellant was diagnosed with pinguecula/pterygium, and diagnostic studies from 2003 and 2004. Also received was an October 18, 2006 report from Dr. Tony Ho, an ophthalmologist, diagnosing right (eye) macular hole.

In an October 3, 2007 report, Dr. Hamid D. Mani, an ophthalmologist, diagnosed full-thickness macular hole (right) and cataracts. OWCP also received diagnostic studies from October 2007 through October 2013. Additionally, employing establishment medical records from June 2008 through October 2013 included diagnoses of right (eye) macular hole and early cataracts, bilaterally. As of October 14, 2013, appellant was declared legally blind in his right eye.

By decision dated May 2, 2014, OWCP denied appellant's claim. It found that the medical evidence of record was insufficient to establish a diagnosis in connection with the injury and/or event(s). OWCP noted that it had "not received any medical evidence...." It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On May 1, 2015 appellant's then counsel requested reconsideration.

By decision dated June 4, 2015, OWCP found that, while appellant established a medical diagnosis in connection with his reported employment exposure, he failed to establish causal relationship between his claimed eye condition and factors of his federal employment.

On June 6, 2016 appellant requested reconsideration. In support of his reconsideration request, he submitted an April 5, 2016 report from Dr. Stanley L. Plecha, Jr., a Board-certified ophthalmologist, who diagnosed macular cyst, hole, pseudohole, and nuclear sclerosis.

By decision dated July 14, 2016, OWCP denied modification of the prior decision, finding that the additional medical evidence submitted was insufficient to establish causal relationship.

On June 13, 2017 appellant requested reconsideration. He described his various employment duties and environmental factors, and provided images of tools he used while performing his duties as a boatswain. Appellant also referenced having included additional medical evidence regarding a diabetic eye condition, as well as a recent report from Dr. Plecha.

In a July 12, 2017 decision, OWCP denied appellant's June 13, 2017 request for reconsideration, finding that the evidence presented was insufficient to warrant merit review of its July 14, 2016 decision.

LEGAL PRECEDENT

Section 8128(a) of FECA vests OWCP with discretionary authority to determine whether to review an award for or against compensation. The Secretary of Labor may review an award for or against compensation at any time on his own motion or on application.²

To require OWCP to reopen a case for merit review pursuant to FECA, the claimant must provide evidence or an argument which: (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's decision for which review is sought.⁴ If it chooses to grant reconsideration, it reopens and reviews the case on its merits.⁵ If the request is timely, but fails to meet at least one of the requirements for reconsideration, OWCP will deny the request for reconsideration without reopening the case for review on the merits.⁶

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).

Appellant's June 13, 2017 request for reconsideration did not show that OWCP erroneously applied or interpreted a specific point of law or advance a relevant legal argument not previously considered by OWCP. Accordingly, he has not established a basis for further merit review under the first and second above-noted requirements of 20 C.F.R. § 10.606(b)(3).

The underlying issue is whether the record established a causal relationship between appellant's right (eye) macular hole and/or bilateral cataracts and his accepted factors of federal employment. Although appellant referenced submitting additional medical evidence, there is no indication that OWCP received any additional medical evidence. Moreover, the information OWCP received regarding appellant's employment duties is not relevant to the underlying medical issue. Evidence that does not address the particular issue under consideration does not constitute

² 5 U.S.C. § 8128(a); *see L.D.*, Docket No. 18-1468 (issued February 11, 2019); *see also V.P.*, Docket No. 17-1287 (issued October 10, 2017); *D.L.*, Docket No. 09-1549 (issued February 23, 2010); *W.C.*, 59 ECAB 372 (2008).

³ 20 C.F.R. § 10.606(b)(3); *see L.D.*, *id.*; *see also L.G.*, Docket No. 09-1517 (issued March 3, 2010); *C.N.*, Docket No. 08-1569 (issued December 9, 2008).

⁴ *Id.* at § 10.607(a). The one-year period begins on the next day after the date of the original contested decision. 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. *Id.* at Chapter 2.1602.4b.

⁵ *Id.* at § 10.608(a); *see also M.S.*, 59 ECAB 231 (2007).

⁶ *Id.* at § 10.608(b); *E.R.*, Docket No. 09-1655 (issued March 18, 2010).

a basis for reopening a case.⁷ As such, appellant's newly submitted evidence is insufficient to warrant further merit review based on the third above-noted requirement under 20 C.F.R. § 10.606(b)(3). Accordingly, OWCP properly declined to reopen appellant's case under 5 U.S.C. § 8128(a).

CONCLUSION

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).

ORDER

IT IS HEREBY ORDERED THAT the July 12, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 20, 2019
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

⁷ See *S.J.*, Docket No. 17-1798 (issued February 23, 2018).