

to factors of her federal employment, including repetitive casing, handling, and delivering of mail. She noted that she first became aware of her condition on June 30, 2021 and realized its relation to her federal employment on July 27, 2021.

In a July 27, 2021 report, Dr. David A. Daiga, a Board-certified neurologist, related that appellant had sustained injuries during an October 25, 2020 work-related motor vehicle accident. He advised that she had a secondary complaint of bilateral hand pain and numbness, which a July 27, 2021 electromyography (EMG) confirmed was bilateral carpal tunnel syndrome. Dr. Daiga concluded that appellant's bilateral carpal tunnel syndrome was the result of years of repetitive work-related activities.

In a development letter dated December 8, 2021, OWCP informed appellant of the deficiencies of her claim, and requested additional medical evidence, including a well-rationalized medical report from a physician, which provided an opinion as to how the reported employment activities caused or aggravated her claimed medical condition. It afforded her 30 days to submit the necessary evidence.

Appellant submitted a December 27, 2021 narrative statement wherein she described her repetitive employment duties and a December 13, 2021 report from Dr. Daiga. In the report, Dr. Daiga noted her employment duties and symptoms. He opined that appellant's bilateral carpal tunnel syndrome, proven on EMG testing, was the direct result of repetitive activities such as mail sorting performed in her federal employment. An undated copy of her nerve conduction studies, which Dr. Daiga indicated demonstrated bilateral moderate median neuropathies, was also provided.

By decision dated March 1, 2022, OWCP denied the claim, finding that the medical evidence of record was insufficient to establish causal relationship between the diagnosed condition and the accepted employment factors.

On May 4, 2022 appellant requested reconsideration. In support thereof, she submitted July 27, 2021 progress notes, wherein Dr. Daiga again diagnosed bilateral carpal tunnel syndrome due to her repetitive work-related activities, and a July 27, 2021 EMG study. Appellant also resubmitted copies of Dr. Daiga's July 27 and December 13, 2021 reports, previously of record.

By decision dated May 6, 2022, OWCP denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

LEGAL PRECEDENT

Section 8128(a) of FECA does not entitle a claimant to review of an OWCP decision as a matter of right.² OWCP has discretionary authority in this regard and has imposed certain

² This section provides in pertinent part: the 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).

limitations in exercising its authority.³ 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.⁴

A timely request 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 considered by OWCP.⁵ When a timely request 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.⁶

ANALYSIS

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).

In her request for reconsideration, appellant did not establish that OWCP erroneously applied or interpreted a specific point of law, nor did she advance a relevant legal argument not previously considered by OWCP.⁷ Consequently, she is not entitled to a review of the merits of her claim based on the first and second above-noted requirements under 20 C.F.R. § 10.606(b)(3).⁸

On reconsideration, appellant resubmitted Dr. Daiga's July 27 and December 13, 2021 reports previously of record and considered by OWCP in its March 1, 2022 merit decision. The Board has held that the submission of evidence which repeats or duplicates evidence already in the case record does not constitute a basis for reopening a case.⁹ Appellant also submitted Dr. Daiga's July 27, 2021 progress notes. These progress notes, however, are substantially similar to his July 27, 2021 report.¹⁰ This evidence, therefore, does not constitute a basis for reopening a

³ 20 C.F.R. § 10.607.

⁴ *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 (September 2020). 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.

⁵ *Id.* at § 10.606(b)(3).

⁶ *Id.* at § 10.608(a)(b).

⁷ *See T.B.*, Docket No. 18-1214 (issued January 29, 2019); *C.B.*, Docket No. 08-1583 (issued December 9, 2008).

⁸ *Id.*

⁹ *See A.G.*, Docket No. 19-0113 (issued July 12, 2019); *L.R.*, Docket No. 18-0400 (issued August 24, 2018); *T.B.*, Docket No. 18-0033 (issued May 23, 2018); *Eugene F. Butler*, 36 ECAB 393, 398 (1984).

¹⁰ *See R.M.*, Docket No. 08-2084 (issued April 7, 2009); *James A. Long*, 40 ECAB 538 (1989); *Susan M. Biles*, 40 ECAB 420 (1988); *Eugene F. Butler, id.*

case.¹¹ OWCP also received a July 27, 2021 EMG study. However, the underlying issue in this case is whether appellant's diagnosed bilateral carpal tunnel syndrome is causally related to her accepted employment duties. That is a medical issue which must be addressed by relevant medical evidence.¹² The Board has held that diagnostic studies, standing alone, lack probative value on the issue of causal relationship as they do not address whether an employment incident caused the diagnosed condition.¹³ Thus, the July 27, 2021 EMG study is, therefore, irrelevant and does not constitute a basis for reopening the claim as it does not address the particular issue involved.¹⁴ Because appellant's request for reconsideration did not include relevant and pertinent new evidence not previously considered, she is not entitled to a review of the merits based on the third requirement under 20 C.F.R. § 10.606(b)(3).¹⁵

The Board, accordingly, finds that appellant has not met 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).

¹¹ *Id.*

¹² *See A.M.*, Docket No. 18-1033 (issued January 8, 2019); *see also Bobbie F. Cowart*, 55 ECAB 746 (2004).

¹³ *C.M.*, Docket No. 21-0004 (issued May 24, 2021); *K.R.*, Docket No. 20-1103 (issued January 5, 2021); *F.S.*, Docket No. 19-0205 (issued June 19, 2019); *A.B.*, Docket No. 17-0301 (issued May 19, 2017).

¹⁴ *See K.D.*, Docket No. 22-0756 (issued November 29, 2022); *K.B.*, Docket No. 18-1392 (issued January 15, 2019); *Edward Matthew Diekemper*, 31 ECAB 224-25 (1979).

¹⁵ 20 C.F.R. § 10.606(b)(3)(iii); *see M.C.*, Docket No. 18-0841 (issued September 13, 2019); *D.P.*, Docket No. 17-0290 (issued May 14, 2018).

ORDER

IT IS HEREBY ORDERED THAT the May 6, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 11, 2023
Washington, DC

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

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

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board