



bone of the skull while in the performance of duty. The case records for appellant's 1983 and 1985 claims have been combined.

On November 17, 2006 appellant filed a claim for a recurrence of disability on that date causally related to his August 10, 1983 employment injury.

By decision dated January 23, 2007, the Office denied appellant's claim on the grounds that the evidence did not establish that he sustained a recurrence of disability on November 17, 2006 causally related to his August 10, 1983 employment injury.

On March 12, 2007 appellant requested reconsideration. He did not submit any additional evidence or argument.

By decision dated March 22, 2007, the Office denied appellant's request for reconsideration on the grounds that the evidence was insufficient to warrant further merit review.

### **LEGAL PRECEDENT**

Section 8128(a) of the Federal Employees' Compensation Act<sup>1</sup> vests the Office with discretionary authority to determine whether it will review an award for or against compensation. The Act states:

"The Secretary of Labor may review an award for or against payment of compensation at any time on [her] own motion or on application. The Secretary, in accordance with the facts found on review may --

- (1) end, decrease, or increase the compensation awarded; or
- (2) award compensation previously refused or discontinued."

The Code of Federal Regulations provides that a claimant may obtain review of the merits of the claim by setting forth arguments that either: (1) shows that the Office erroneously applied or interpreted a specific point of law; or (2) advances a relevant legal argument not previously considered by the Office; or (3) constitutes relevant and new pertinent evidence not previously considered by the Office.<sup>2</sup> When an application for review of the merits of a claim does not meet at least one of these requirements, the Office will deny the application for review without reviewing the merits of the claim.<sup>3</sup>

### **ANALYSIS**

Appellant requested reconsideration of the January 23, 2007 merit decision but provided no evidence or legal argument in support of his request. Neither did he contend that the Office

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<sup>1</sup> 5 U.S.C. § 8128(a).

<sup>2</sup> 20 C.F.R. § 10.606(b)(2).

<sup>3</sup> 20 C.F.R. § 10.608(b).

erroneously applied or interpreted a specific point of law. Because appellant did not submit arguments or evidence showing that the Office erroneously applied or interpreted a specific point of law, advancing a relevant legal argument not previously considered or constituting relevant and new pertinent evidence not considered previously by the Office, which properly denied his request for reconsideration.

**CONCLUSION**

The Board finds that the Office did not abuse its discretion in denying appellant's request for reconsideration.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated March 22, 2007 is affirmed.

Issued: August 25, 2008  
Washington, DC

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

David S. Gerson, Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board