



In a November 20, 2007 report, Dr. Allan R. Wilson, a second opinion physician Board-certified in orthopedic surgery, found that appellant had a three percent right lower extremity impairment. In a January 28, 2008 report, an Office medical adviser reviewed Dr. Wilson's report and concurred with his opinion that appellant had a three percent impairment of the right leg.

By decision dated March 28, 2008, the Office granted appellant a schedule award for three percent permanent impairment of the right leg. The award ran from November 20, 2007 to January 19, 2008, or a total of 8.64 weeks of compensation.

On April 15, 2008 appellant requested an oral hearing, which was held on September 12, 2008.

In an undated report, received by the Office on October 27, 2008, Dr. Robin J. DeLeon, a physical and rehabilitative medicine specialist, stated that he was treating appellant for back pain. He did not provide any impairment rating.

By decision dated December 9, 2008, an Office hearing representative affirmed the March 28, 2008 Office decision.

By letter dated January 12, 2009, appellant requested reconsideration. He did not submit any additional medical evidence with his request.

By decision dated March 10, 2009, the Office denied appellant's request for review on the grounds that it neither raised substantive legal questions nor included new and relevant evidence sufficient to require the Office to review its prior decision.

### **LEGAL PRECEDENT**

Under 20 C.F.R. § 10.606(b), a claimant may obtain review of the merits of his or her claim by showing that the Office erroneously applied or interpreted a specific point of law; by advancing a relevant legal argument not previously considered by the Office; or by constituting relevant and pertinent evidence not previously considered by the Office.<sup>1</sup> Evidence that repeats or duplicates evidence already in the case record has no evidentiary value and does not constitute a basis for reopening a case.<sup>2</sup>

### **ANALYSIS**

Appellant has not shown that the Office erroneously applied or interpreted a specific point of law. He has not advanced a relevant legal argument not previously considered by the Office. Appellant did not submit any new medical evidence in connection with his January 12, 2009 request, which addresses the underlying issue of whether he has greater impairment of the right lower extremity. His reconsideration request failed to show that the Office erroneously

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<sup>1</sup> 20 C.F.R. § 10.606(b)(1); *see generally* 5 U.S.C. § 8128(a).

<sup>2</sup> *Howard A. Williams*, 45 ECAB 853 (1994).

applied or interpreted a point of law nor did it advance a point of law or fact not previously considered by the Office. The Office did not abuse its discretion in refusing to reopen appellant's claim for a review on the merits.

**CONCLUSION**

The Board finds that appellant has no more than a three percent impairment of the right lower extremity. The Board finds that the Office properly refused to reopen appellant's case for reconsideration on the merits of his claim under 5 U.S.C. § 8128(a).

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 10, 2009 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: April 14, 2010  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

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