



related to factors of his federal employment. He first became aware of the illness and attributed it to his federal employment on February 24, 2009.

By decision dated September 2, 2009, the Office denied appellant's claim, finding that he did not submit sufficient medical evidence to establish that he sustained carpal tunnel due to his work activities.<sup>1</sup> It found that the evidence submitted did not establish that appellant's condition was causally related to factors of his federal employment.

On October 2, 2009 appellant requested reconsideration and submitted a September 29, 2009 narrative statement. He noted that Dr. Peter Gulati, Board-certified in family medicine, diagnosed bilateral severe carpal tunnel syndrome. Appellant advised that his hobbies include listening to music and watching television and his work duties include repetitive motions and movements of his hands and wrists. He was referred to a physician who would demonstrate that his injury was "indeed work related" and that additional medical evidence was forthcoming.<sup>2</sup>

By decision dated October 30, 2009, the Office denied appellant's request for reconsideration of the merits finding that he did not submit new and relevant evidence, nor advances substantive legal argument not previously considered by the Office.<sup>3</sup>

### **LEGAL PRECEDENT**

To require the Office to reopen a case for merit review under section 8128(a) of the Federal Employees' Compensation Act,<sup>4</sup> the Office's regulations provide that a timely request for reconsideration in writing may be reviewed on its merits if the employee has submitted evidence or an argument that either: (1) shows that the Office erroneously applied or interpreted a specific point of law; (2) advances a relevant legal argument not previously considered by the Office; or (3) constitutes relevant and pertinent new evidence not previously considered by the Office.<sup>5</sup> 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.<sup>6</sup>

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> In a decision dated October 30, 2009, the Office indicated that no such medical evidence was received.

<sup>3</sup> The Board notes that, following the issuance of the October 30, 2009 Office decision and on appeal, appellant submitted new evidence. However, the Board is precluded from reviewing evidence which was not before the Office at the time it issued its final decision. See 20 C.F.R. § 501.2(c)(1). Appellant may resubmit this evidence, together with a formal written request for reconsideration to the Office, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. § 10.606.

<sup>4</sup> 5 U.S.C. § 8101 *et seq.* Under section 8128 of the Act, the Secretary of Labor may review an award for or against payment of compensation at any time on her own motion or on application. 5 U.S.C. § 8128(a).

<sup>5</sup> 20 C.F.R. § 10.606(b)(2). See *L.T.*, 61 ECAB \_\_\_\_ (Docket No. 09-1798, issued August 5, 2010).

<sup>6</sup> *Eugene F. Butler*, 36 ECAB 393 (1984).

### ANALYSIS

In support of his reconsideration request, appellant submitted a narrative statement. The Board finds that the submission of this statement did not require reopening his case for merit review. The Office denied his claim based on the lack of medical evidence addressing causal relation and appellant did not submit any medical evidence with his reconsideration request. Appellant's narrative statement merely addressed evidence already in the case record. It does not constitute relevant and pertinent new evidence and is not sufficient to require the Office to reopen his claim for further consideration of the merits.<sup>7</sup>

The Board finds that appellant did not submit any evidence to show that the Office erroneously applied or interpreted a specific point of law; nor did he advance a relevant legal argument not previously considered by the Office. As appellant did not meet any of the necessary requirements, he is not entitled to further merit review.

### CONCLUSION

The Board finds that the Office properly refused to reopen his claim for further consideration of the merits under 5 U.S.C. § 8128.

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<sup>7</sup> *T.E.*, 108 LRP 22579 (Docket No. 07-2227, issued March 19, 2008); *James W. Scott*, 55 ECAB 606 (2004); *Butler*, *supra* note 6.

**ORDER**

**IT IS HEREBY ORDERED THAT** the October 30, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 10, 2011  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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