



2014 employment injury; and (2) whether OWCP properly denied appellant's request for reconsideration of the merits of his claim pursuant to 5 U.S.C. § 8128(a).

### **FACTUAL HISTORY**

On December 31, 2014 appellant, then a 36-year-old customs and border protection (CBP) officer, filed a traumatic injury claim (Form CA-1) alleging that on December 12, 2014 he sustained lower back pain when a trainer brought him to the ground during a training exercise while in the performance of duty.

In a February 5, 2015 progress report, Dr. Peter B. Slabaugh, a Board-certified orthopedic surgeon, related appellant's complaints of persistent back pain following a "December 14, 2014" work-related injury. Upon physical examination of appellant's lumbar spine, he observed good range of motion with pain at flexion and extension. Dr. Slabaugh diagnosed lumbar sprain and backache. He recommended that appellant work modified duty with restrictions of no wearing a gun belt, no prolonged standing, sitting, stooping, or bending, and a 5-minute break every 30 minutes in order to stand, ambulate, and stretch.

OWCP accepted his claim for lumbar sprain. It paid wage-loss compensation for partial disability for loss of Sunday premium and holiday pay for the period February 10, 2015 through February 7, 2016.

On March 25, 2016 appellant filed a claim for wage-loss compensation (Form CA-7) for "other wage loss" and indicated that it was for loss of Sunday premium and holiday pay for the period February 8 through March 12, 2016. On the reverse side of the form, the employing establishment indicated that appellant worked full time Monday through Friday and confirmed that appellant had lost wages for Sunday and holiday pay during the claimed period. Appellant continued to file various claims for "other wage loss" compensation until February 24, 2017.

In a March 31, 2016 development letter, OWCP requested that the employing establishment provide additional information regarding appellant's work schedule and the salary for a CBP officer, effective February 8, 2016.

According to a Form CA-110 memorandum, the employing establishment confirmed that appellant had a work schedule that fluctuated weekly. It also submitted a fiscal pay rate printout which covered the period December 12, 2013 to December 11, 2014 when he worked full duty as a CBP officer, GS-11/Step 1. The earnings and leave statement indicated that his total annual pay was \$68,643.00 plus \$4,068.57 in Sunday premium hours, \$8,708.06 in night differential hours, and \$1,375.80 in holiday premium pay hours. Based on the annual earnings and leave statement, OWCP calculated that appellant's weekly gross pay was \$1,320.06 plus \$167.46 in night differential, \$78.24 in Sunday premium pay, and \$26.46 in holiday premium pay.

In another Form CA-110 memorandum, the employing establishment indicated that in 2016 a GS-11/Step 1 in the same area with the same position earned \$70,333.00 a year.

In a development letter dated April 20, 2016, OWCP noted receipt of appellant's claim for "other wage loss" compensation for the period February 8 through March 12, 2016. It requested

that he provide documentation of his actual earnings, such as pay stubs or pay slips, during the claimed period.

Appellant provided an earnings and leave statement for the pay period ending February 20, 2016. It indicated that he was a GS-12, Step 1. The earnings and leave statement demonstrated that appellant had a base salary of \$84,302.00. Appellant provided additional earnings and leave statements from 2015 and for pay periods ending from January 9, 2016 through February 18, 2017. The earnings and leave statements indicate that appellant's position was a GS-12/Step-01, effective March 6, 2016. His position was a GS-12, Step 02 effective August 7, 2016.

OWCP also received a fiscal pay rate printout for the period February 8, 2015 to February 7, 2016. It noted that appellant was a GS-12/ Step 1 with an annual salary of \$84,302.00 plus \$132.88 for Sunday premium pay, \$23.23 for night differential pay, and \$100.00 for Holiday pay. The printout also noted that appellant's weekly pay was \$1,615.60.

On May 10, 2016 OWCP paid appellant for partial disability for loss of Sunday premium and holiday pay for the period February 8 through March 12, 2016.

On February 1 and 28, 2017 appellant filed claims for four hours of wage-loss compensation due to doctor visits on May 13, 2016 and February 21, 2017.

By decision dated May 12, 2017, OWCP denied appellant's claim for wage-loss compensation and loss of Sunday and holiday premium pay for the period March 13, 2016 to February 24, 2017.<sup>3</sup> It denied appellant's wage-loss compensation claim in accordance with 20 C.F.R. § 10.501 because it found that appellant's actual earnings were equal to or exceeded appellant's date-of-injury pay rate. OWCP first calculated appellant's wage-loss capacity for the period February 8, 2016 through January 7, 2017. It explained that the base weekly pay rate for his date-of-injury position as a GS-11/Step 01 was \$1,352.56 in 2016. Appellant's base weekly rate was then increased by the percentage of premium pay earned for a total weekly pay rate, plus premium pay, of \$1,631.42. OWCP then noted that appellant's annual base pay for his current position as a GS-12, Step 01 was \$84,600.25. It divided appellant's annual salary by 52 weeks, which equaled weekly earnings of \$1,626.93. Applying the *Shadrick*<sup>4</sup> formula, OWCP determined that appellant had no loss of wage-earning capacity for the period February 8, 2016 through January 7, 2017.

OWCP then calculated appellant's loss of wage-earning capacity for the period January 8 through February 18, 2017. It noted that the base weekly pay rate for his date-of-injury position as a GS-11/Step 01 was \$1,390.44. Appellant's weekly earnings was then increased by the percentage of premium pay earned for a total weekly pay rate, plus premium pay, of \$1,677.11 OWCP then noted that according to appellant's pay slips, his actual weekly earnings during the

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<sup>3</sup> OWCP noted that it had previously paid appellant for wage-loss compensation for partial disability for the period February 8 through March 12, 2016.

<sup>4</sup> *Albert C. Shadrick*, 5 ECAB 376 (1953). The formula developed in the *Shadrick* decision has been codified at 20 C.F.R. § 10.403(d), which provides that the employee's wage-earning capacity in terms of percentage is obtained by dividing the employee's actual earnings or the pay rate of the position selected by OWCP, by the current pay rate for the job held at the time of the injury.

period January 8 to February 18, 2017 was \$10,298.40. It divided this amount by six weeks, which resulted in weekly earnings of \$1,624.06. Applying the *Shadrick*<sup>5</sup> formula, OWCP determined that appellant had no-loss of wage-earning capacity during the claimed period. It further noted that it had not received earnings information for the remaining period February 19 to 24, 2017. Accordingly, OWCP found that appellant was not entitled to wage-loss for loss of Sunday premium or holiday pay for the period February 8, 2016 to February 24, 2017 as the evidence of record did not demonstrate a loss of earnings.

On June 2, 2017 appellant requested a review of the written record before a representative of OWCP's Branch of Hearings and Review. He indicated that he was writing regarding the formal denial of his claims for wage-loss compensation for March 13, 2016 and February 21, 2017. Appellant alleged that he was entitled to four hours of compensation for routine medical appointments. He provided a print-out of Federal (FECA) Procedure Manual, Part 2, Chapter 2.0901.19 regarding "Wages Lost for Medical Examination or Treatment."

By decision dated September 21, 2017, an OWCP hearing representative determined that the medical evidence of record was insufficient to establish that appellant was unable to work full duty during the claimed period. The hearing representative noted that the medical evidence was unclear to show if OWCP should issue a formal loss of wage-earning capacity determination. OWCP's hearing representative remanded the case to OWCP for referral to a second-opinion examiner in order to determine whether appellant's current back condition was causally related to the accepted employment injury and whether work restrictions were applicable.<sup>6</sup>

On November 3, 2017 OWCP referred appellant's claim, along with a statement of accepted facts (SOAF) and a copy of the medical record, to Dr. Mohinder S. Nijjar, a Board-certified orthopedic surgeon, for a second opinion examination in order to determine whether appellant was disabled from his full-duty position due to his work-related injury and was entitled to payment of disability compensation benefits during the period March 13, 2016 through February 24, 2017 due to a loss of Sunday premium and holiday pay and whether appellant was entitled to four hours of compensation for disability on May 13, 2016 and February 24, 2017.

In a November 21, 2017 report, Dr. Nijjar reviewed appellant's history, including the SOAF, and discussed appellant's medical records. He noted appellant's complaints of low back pain radiating to the back of the calf when he walked or stood for more than 20 to 30 minutes, with repetitive twisting of his back, and with lifting more than 20 pounds. Upon physical examination of appellant's lumbar spine, Dr. Nijjar observed slight straightening of the curvature, minimal tenderness over the lumbosacral area, and mild muscle spasm in the paraspinal region more on the left side than the right side. Straight leg raise testing was negative. Dr. Nijjar reported that neurologic examination of appellant's lower extremities revealed positive deep tendon reflexes in

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<sup>5</sup> *Id.*

<sup>6</sup> The hearing representative further noted that on February 14, 2017 and on March 29, 2017 OWCP received form CA-7a claiming four hours of LWOP on May 13, 2016 and February 24, 2017. The hearing representative requested that OWCP make a formal determination on appellant's entitlement to compensation for his medical appointments.

the knees and ankles. He diagnosed lumbar strain and opined that appellant's lumbar injury was related to the accepted December 12, 2014 employment injury.

Regarding appellant's disability, Dr. Nijjar opined that there was "no period of work-related total disability." He explained that appellant worked full duty from December 12, 2014 through February 25, 2015 and modified duty beginning February 25, 2015. Dr. Nijjar completed a work restriction evaluation (Form OWCP-5c) indicating that appellant could work full-time modified duty with restrictions of sitting, standing, and walking for 8 hours, pushing, pulling, and lifting no more than 30 pounds for 8 hours, bending and stooping for 4 hours, and a 5-minute break every 30 minutes.

By decision dated January 18, 2018, OWCP denied appellant's claim for wage-loss compensation for the period March 13, 2016 through February 24, 2017 based on his wage-earning capacity. It found that OWCP properly determined in its May 12, 2017 decision that appellant had no loss of wage-earning capacity based on his actual earnings. OWCP further determined that appellant's position as a modified customs and border patrol officer that he held on March 13, 2016 was an appropriate limited-duty job and properly represented his wage-earning capacity. It indicated that appellant's pay grade and step had changed from GS-11/ Step 01 to GS-12/ Step 01. OWCP explained, therefore, that under the *Shadrick*<sup>7</sup> formula, appellant had no loss of wage-earning capacity and was not entitled to wage-loss compensation for loss of Sunday premium or holiday pay during the claimed period.

On February 6, 2018 appellant requested reconsideration. He asserted that he disagreed with the January 18, 2018 OWCP decision. Appellant further indicated that he was writing about a separate issue regarding denial of his Form CA-7s claiming compensation for four hours due to routine medical appointments on May 13, 2016 and February 21, 2017. He alleged that pursuant to the Federal (FECA) Procedure Manual Chapter 2.901.19, he was entitled to up to four hours of compensation for medical appointments.

OWCP received earnings information from the employing establishment for the period December 12, 2013 to December 11, 2014.

In a February 8, 2018 statement, appellant related that he wanted to reclassify his condition as a herniated disc with sciatica on the left leg. He noted that this was the latest diagnosis following a January 30, 2018 doctor's visit.

OWCP received a January 30, 2018 report by Dr. Slabaugh. Dr. Slabaugh related that "a couple of months ago" appellant began to develop left, much greater than right, sciatic symptoms in the bilateral lower extremities. Upon physical examination of appellant's lumbar spine, he observed no deformity, localized tenderness, or muscle spasm with quite good range of motion throughout. Straight leg raise testing was mildly positive about 70 degrees on the left and negative on the right. Dr. Slabaugh indicated that examination of appellant's bilateral lower extremities revealed good pulses bilaterally with no atrophy, edema, and painless range of motion. He opined that appellant had "a flare up of low back and now a left sciatic complaint related to the deep tissue massage that he had for his back in the recent past and likely related to the mild abnormal finding

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<sup>7</sup> *Supra* note 3.

noted on the previous [magnetic resonance imaging] scan.” Dr. Slabaugh recommended that appellant continue with permanent modified work activity without any change in work restriction.

By decision dated February 12, 2018, OWCP denied reconsideration of the merits of appellant’s claim. It found that appellant had not met the requirements of 5 U.S.C. § 8128(a) sufficient to warrant merit review. OWCP found that the additional evidence submitted was not relevant to the issue of appellant’s entitlement to wage-loss compensation during the period March 31, 2016 through February 24, 2017.

### **LEGAL PRECEDENT -- ISSUE 1**

Section 8115 of FECA provides that when an individual sustains an employment-related injury that prevents return to the employment held at the time of injury, but that does not render the employee totally disabled for all gainful employment, the employee is considered partially disabled and is entitled to compensation for his loss of wage-earning capacity.<sup>8</sup> If a claimant is entitled to compensation for partial wage loss after return to work, OWCP offsets actual earnings by comparing the wages of the position he or she was currently able to perform with the current wages of the position he or she held when injured pursuant to the *Shadrick*<sup>9</sup> formula.<sup>10</sup>

The formula for determining loss of wage-earning capacity has been codified at section 10.403(c)-(e) of OWCP’s regulations.<sup>11</sup> Under the *Shadrick* formula, OWCP calculates an employee’s wage-earning capacity in terms of percentage by dividing the employee’s actual earnings (or constructed earnings) by the current or updated pay rate for the position held at the time of injury.<sup>12</sup> The employee’s wage-earning capacity in dollars is computed by first multiplying the pay rate for compensation purposes, defined in 20 C.F.R. § 10.5(a) as the pay rate at the time of injury, the time disability begins or the time disability recurs, whichever is greater, by the percentage of wage-earning capacity. The resulting dollar amount is then subtracted from the pay rate for compensation purposes to obtain loss of wage-earning capacity.<sup>13</sup> It has been administratively determined that certain pay elements will be included in computing an

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<sup>8</sup> 5 U.S.C. § 8115. *See also* 20 C.F.R. § 10.402.

<sup>9</sup> *Supra* note 3.

<sup>10</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Determining Wage-Earning Capacity*, Chapter 2.815.2(e) (June 2013).

<sup>11</sup> 20 C.F.R. § 10.403(c)-(e).

<sup>12</sup> *Id.* at § 10.403(c)-(d).

<sup>13</sup> *Id.* at § 10.403(e).

employee's pay rate, including night or shift differential, Saturday premium, Sunday premium, and holiday and retention pay.<sup>14</sup>

### **ANALYSIS -- ISSUE 1**

The Board finds that appellant has not met his burden of proof to establish partial disability during the period March 13, 2016 through February 24, 2017 due to his December 12, 2014 employment injury.

Appellant does not dispute that the earnings in his modified position fairly and reasonably represented his wage-earning capacity. Instead, he contends that he is entitled to wage-loss compensation because he does not earn as many hours of Sunday or holiday premium pay than he earned in his previous position.

The Board finds that OWCP properly applied the *Shadrick* formula to determine that appellant had zero percent loss of wage-earning capacity.<sup>15</sup> In its May 12, 2017 decision, OWCP first determined appellant's wage-loss capacity for the period March 13, 2016 through January 7, 2017. It properly used appellant's weekly pay rate of \$1,592.22 for a GS-11/Step-1 from the date of injury in line (1) of the *Shadrick* formula. In line (2) of the *Shadrick* formula, OWCP properly calculated the weekly pay rate for the current annual salary for the date-of-injury position. The record reveals that the annual salary, effective January 2016, for appellant's date-of-injury position was \$70,333.00. Dividing the annual salary by 52 weeks, OWCP calculated appellant's weekly pay rate as \$1,352.56 and then increased the updated base pay by the percentage of premium pay earned, to determine that the total currently weekly pay rate for the date-of-injury job plus premium pay would be \$1,631.42. The Board notes that OWCP properly calculated the current weekly pay rate for appellant's date-of-injury position.

In line (3) of the *Shadrick* formula, OWCP used appellant's actual weekly earnings of \$1,626.93. OWCP properly divided appellant's current annual salary as a GS-12/Step 01 of \$84,600.25 by 52 weeks to show a weekly salary of \$1,626.93. In line (4) of the *Shadrick* formula, OWCP then divided his actual weekly earnings during March 13, 2016 to January 7, 2017 (\$1,626.93) by the current pay rate for the job he held when injured (\$1,631.42) for a total wage-earning capacity percentage of 100 percent.<sup>16</sup> Because appellant's actual wages for the period March 13, 2016 through January 7, 2017 exceeded the current wages of the position he held on

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<sup>14</sup> See *supra* note 10 at Chapter 2.900.6(b) (March 2011). It has been determined administratively that the following elements will be included in computing an employee's pay rate: (1) Night differential is paid for regularly scheduled work between the hours of 6:00 p.m. and 6:00 a.m. (4) Premium pay for work on Sundays and/or Saturdays under 5 U.S.C. § 5546(a), which provides for extra pay when an employee's regular work schedule includes an 8-hour period, any part of which falls on a Sunday or described as being within the period commencing at 12:00 a.m. Saturday and ending at 12:00 a.m. Sunday. Saturday pay is usually payable to health professionals working for the Department of Veterans Affairs. (5) Premium pay for work on holidays under 5 U.S.C. § 5546(b), which provides for extra pay when an employee's regular schedule includes work on a holiday. This increment may not be paid for work which exceeds eight hours or which represents overtime.

<sup>15</sup> See *A.L.*, Docket No. 16-1092 (issued May 9, 2017).

<sup>16</sup> The Board notes that the specific percentage amount was 99.97 percent, which OWCP rounded to 100 percent.

the date of injury, the Board finds that OWCP correctly found that he was not entitled to wage-loss compensation for loss of Sunday or Holiday premium pay.

The Board also finds that OWCP properly applied the *Shadrick* formula to determine that appellant had zero percent loss of wage-earning capacity for the remaining claimed period January 8 to February 18, 2017. OWCP properly used appellant's weekly pay rate of \$1,592.22 for a GS-11/Step-1 from the date of injury in line (1) of the *Shadrick* formula. In line (2) of the *Shadrick* formula, OWCP properly calculated the weekly pay rate for the current annual salary for the date-of-injury position, effective January 8, 2017, was \$1,390.44. It then increased the updated base pay by the percentage of premium pay earned, to determine that the total current weekly pay rate for the date-of-injury job plus premium pay would be \$1,677.11. The Board finds that OWCP properly calculated the current weekly pay rate for appellant's date-of-injury position.

In line (3) of the *Shadrick* formula, OWCP used appellant's actual weekly earnings of \$1,716.40<sup>17</sup> during the period January 8 to February 18, 2017. In line (4) of the *Shadrick* formula, OWCP then divided his actual weekly earnings during the period January 8 to February 18, 2017 (\$1,716.40) by the current pay rate for the job he held when injured (\$1,677.11) for a total wage-earning capacity percentage of 100 percent.<sup>18</sup> Because appellant's actual wages for the period January 8 through February 18, 2017 exceeded the current wages of the position he held on the date of injury, the Board finds that OWCP correctly found that he was not entitled to wage-loss compensation for loss of Sunday or Holiday premium pay.

Although appellant claimed wage-loss compensation because he has received less Sunday premium and holiday pay, the evidence of record reflects that appellant's current weekly earnings as a GS-12 employee during the period March 13, 2016 through February 24, 2017<sup>19</sup> exceeded his actual average date-of-injury weekly pay rate as a GS-11/Step 01, including his Sunday premium and Holiday pay. Therefore, the Board finds that appellant has failed to establish wage-loss compensation for partial disability for the period March 13, 2016 to February 24, 2017.

On appeal appellant alleges that he remains entitled to up to four hours of wage-loss compensation for a medical examination, regardless of loss of wage-earning capacity. Appellant specifically contends that he was entitled to wage-loss compensation for medical appointments on May 13, 2016 and February 24, 2017. However, there is no final adverse decision presently before the Board as to the claim for wage-loss compensation for attendance at medical appointments and therefore the Board lacks jurisdiction over this issue.

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<sup>17</sup> OWCP erroneously noted in its decision that \$10,298.40 divided by six equaled \$1,624.06. However, in its compensation computation sheet, it correctly noted that appellant's average weekly earnings during this period was \$1,716.40.

<sup>18</sup> The Board notes that the specific percentage amount is 102 percent.

<sup>19</sup> In its May 12, 2017 decision, OWCP properly noted that no earnings information was provided for the remaining claimed period February 19 to 24, 2017.



Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.606 through 10.607.

### **LEGAL PRECEDENT -- ISSUE 2**

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.<sup>20</sup>

To require OWCP to reopen a case for merit review pursuant to FECA, the claimant must provide evidence or an argument that: (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.<sup>21</sup>

A request for reconsideration must also be received by OWCP within one year of the date of OWCP's decision for which review is sought.<sup>22</sup> If OWCP chooses to grant reconsideration, it reopens and reviews the case on its merits.<sup>23</sup> 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.<sup>24</sup>

### **ANALYSIS -- ISSUE 2**

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 has not established that OWCP erroneously applied or interpreted a specific point of law or advanced a new and relevant legal argument not previously considered. Thus, he is not entitled to a review of the merits of his claim based on the first and second above-noted requirements under 20 C.F.R. § 10.606(b)(3).

On February 6, 2018 appellant requested reconsideration of OWCP's January 18, 2018 decision denying his wage-loss compensation claim for partial disability for the period March 13, 2016 to February 24, 2017. He provided two handwritten statements in which he alleged that pursuant to the Federal (FECA) Procedure Manual, he was entitled to up to four hours of compensation for medical appointments. In another statement, appellant asserted that he wanted to reclassify his condition as a herniated disc with sciatica on the left leg. The Board notes that OWCP denied appellant's wage-loss compensation claim because the evidence of record showed

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<sup>20</sup> 5 U.S.C. § 8128(a); *see also D.L.*, Docket No. 09-1549 (issued February 23, 2010); *W.C.*, 59 ECAB 372 (2008).

<sup>21</sup> 20 C.F.R. § 10.606(b)(3); *see also L.G.*, Docket No. 09-1517 (issued March 3, 2010); *C.N.*, Docket No. 08-1569 (issued December 9, 2008).

<sup>22</sup> 20 C.F.R. § 10.607(a).

<sup>23</sup> *Id.* at § 10.608(a); *see also M.S.*, 59 ECAB 231 (2007).

<sup>24</sup> *Id.* at § 10.608(b); *E.R.*, Docket No. 09-1655 (issued March 18, 2010).

that his actual earnings during the period March 13, 2016 to February 24, 2017 exceeded his date-of-injury pay rate, and thus, he was not entitled to wage-loss compensation for partial disability. Appellant's statements, therefore, are irrelevant to the issue of partial disability in this case. The Board notes that the submission of evidence that does not address the particular issue involved does not constitute a basis for reopening a case.<sup>25</sup> Likewise, Dr. Slabaugh's January 30, 2018 medical report is irrelevant to the issue of whether appellant was entitled to wage-loss compensation due to loss of Sunday premium or holiday pay.

OWCP also received earnings information from the employing establishment for the period December 12, 2013 to December 11, 2014, which was previously reviewed by OWCP. The submission of evidence which repeats or duplicates evidence already in the case record does not constitute a basis for reopening a case.<sup>26</sup> As such, appellant is not entitled to a review of the merits based on the third requirement under section 10.606(b)(3).

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.<sup>27</sup>

### **CONCLUSION**

The Board finds that appellant has not met his burden of proof to establish wage-loss compensation for partial disability during the period March 13, 2016 to February 24, 2017 due to his December 12, 2014 employment injury. The Board also finds that OWCP properly denied appellant's request for reconsideration of the merits of his claim pursuant to 5 U.S.C. § 8128(a).

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<sup>25</sup> *Alan G. Williams*, 52 ECAB 180 (2000); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>26</sup> *E.M.*, Docket No. 09-0039 (issued March 3, 2009); *D.K.*, 59 ECAB 141 (2007).

<sup>27</sup> *A.F.*, Docket No. 18-1154 (issued January 17, 2019); *see A.R.*, Docket No. 16-1416 (issued April 10, 2017); *A.M.*, Docket No. 16-0499 (issued June 28, 2016); *A.K.*, Docket No. 09-2032 (issued August 3, 2010); *M.E.*, 58 ECAB 694 (2007); *Susan A. Filkins*, 57 ECAB 630 (2006) (when an application for reconsideration does not meet at least one of the three requirements enumerated under section 10.606(b), OWCP will deny the application for reconsideration without reopening the case for a review on the merits).

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 12 and January 18, 2018 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: September 26, 2019  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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