

**United States Department of Labor
Employees' Compensation Appeals Board**

C.S., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Wood River, IL, Employer**

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**Docket No. 12-1279
Issued: November 26, 2012**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:

RICHARD J. DASCHBACH, Chief Judge
COLLEEN DUFFY KIKO, Judge
PATRICIA HOWARD FITZGERALD, Judge

On May 24, 2012 appellant timely appealed the May 3, 2012 merit decision of the Office of Workers' Compensation Programs which granted a schedule award.¹ The Board docketed the appeal as No. 12-1279.

This case was previously before the Board.² Appellant has an accepted claim for lumbar sprain which arose on or about January 29, 2009. In an April 20, 2010 decision, OWCP granted a schedule award for four percent impairment of the left lower extremity.³ Additionally, it found zero impairment of the right lower extremity. The schedule award was based on the district medical adviser's (DMA) January 20, 2010 impairment rating. He applied Table 16-12, "Peripheral Nerve Impairment -- Lower Extremity Impairments," A.M.A., *Guides* 534-36 (6th ed. 2008). The April 20, 2010 schedule award was subsequently affirmed by the Branch of Hearings & Review.

¹ Pursuant to the Federal Employees' Compensation Act (FECA), 5 U.S.C. §§ 8101-8193, and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

² Docket No. 11-198 (issued August 3, 2011).

³ The award was calculated pursuant to the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (2008).

By decision dated August 3, 2011, the Board set aside the hearing representative's October 20, 2010 decision. The Board noted, *inter alia*, that Table 16-12, A.M.A., *Guides* 534-36 (6th ed. 2008) was not the preferred method adopted by OWCP for rating spinal nerve extremity impairment.⁴ Accordingly, the case was remanded for further development.⁵

OWCP issued another schedule award decision on May 3, 2012. The latest decision also found four percent impairment of the left lower extremity and zero percent impairment of the right lower extremity. Once again, the DMA incorrectly relied on Table 16-12, A.M.A., *Guides* 534-36 (6th ed. 2008) as a basis for determining appellant's lower extremity impairment. As noted in our prior decision, the sixth edition of the A.M.A., *Guides* (2008) provides a specific methodology for rating spinal nerve extremity impairment. It was designed for situations where a particular jurisdiction mandated ratings for extremities and precluded ratings for the spine. The appropriate tables for rating spinal nerve extremity impairment can be found in the FECA Procedure Manual, which follows the guidelines set forth in the July/August 2009 edition of the *The Guides Newsletter*, "Rating Spinal Nerve Extremity Impairment Using the Sixth Edition."⁶ Because the DMA did not apply the appropriate rating method, the case will be remanded for further development.⁷ After OWCP has developed the case record to the extent it deems necessary, a *de novo* decision shall be issued regarding entitlement to a schedule award.

⁴ See Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700, Exhibit 4 (January 2010).

⁵ The Board's August 3, 2011 decision is incorporated herein by reference.

⁶ See *supra* note 4.

⁷ Once OWCP undertakes development of the record it must do a complete job in procuring medical evidence that will resolve the relevant issues in the case. *Richard F. Williams*, 55 ECAB 343, 346 (2004).

IT IS HEREBY ORDERED THAT May 3, 2012 decision of the Office of Workers' Compensation Programs is set aside. The case is remanded for further action consistent with this order of the Board.

Issued: November 26, 2012
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board