

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

T.S., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
West Sacramento, CA, Employer**

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**Docket No. 12-1781
Issued: February 12, 2013**

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 August 13, 2012 appellant filed an appeal from a decision of the Office of Workers' Compensation Programs (OWCP) dated May 15, 2012 in File No. xxxxxx954. The Board assigned Docket No. 12-1781.¹ The Board has duly considered the matter and finds this case is not in posture for a decision.

The record reflects that OWCP issued a schedule award on October 8, 2009 for an eight percent impairment of appellant's right upper extremity and a zero percent impairment of the left upper extremity. In a decision dated October 15, 2010, OWCP denied appellant's request for reconsideration. On May 2, 2012 appellant filed a Form CA-7, together with additional medical evidence requesting a schedule award, contending that she had additional impairment. By letter dated May 15, 2012, OWCP informed appellant that it would not take further action on her request for a schedule award unless their decision was remanded back to them by the Board for further development.

In schedule award cases, a distinction is made between an application for an additional schedule award and a request for reconsideration of the existing schedule award. When a claimant is asserting that the original award was erroneous based on his or her medical condition at that time, this is a request for reconsideration. A claim for an additional schedule award may

¹ This case was previously before the Board. By order dated December 21, 2011, the Board dismissed appellant's appeal at her request. Docket No. 11-1195 (issued December 21, 2011).

be based on new exposure to employment factors or on the progression of an employment-related condition, without new exposure, resulting in greater permanent impairment.²

The Board finds that appellant has submitted new evidence addressing a claim for an additional schedule award based on a progression of her employment-related condition rather than arguing that the original schedule award was in error.³ The Board has repeatedly held that a claimant may request a schedule award or increased schedule award based on evidence of a new exposure or medical evidence showing progression of an employment-related condition resulting in permanent impairment or increased impairment. The Board finds, therefore, that OWCP erroneously refused to address appellant's request for an increased schedule award. On remand, OWCP should review and develop the medical evidence and issue an appropriate decision regarding appellant's request for an increased schedule award.

IT IS HEREBY ORDERED THAT the May 15, 2012 decision of the Office of Workers' Compensation Programs is set aside and remanded for further development consistent with this order of the Board.

The Board's decisions and orders are "final upon the expiration of 30 days from the date of their issuance."⁴

Issued: February 12, 2013
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

² *Candace A. Karkoff*, 56 ECAB 622 (2005).

³ *Rose V. Ford*, 55 ECAB 449 (2004).

⁴ 20 C.F.R. § 501.6(d).