United States Department of Labor Employees' Compensation Appeals Board

R.W., Appellant)
and) Docket No. 12-287) Issued: July 26, 2012
U.S. POSTAL SERVICE, POST OFFICE, Charlotte, NC, Employer) issued: July 20, 2012)) _)
Appearances: Daniel F. Read, Esq., for the appellant 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 November 23, 2011 appellant, through his attorney, filed an application for review of a decision of the Office of Workers' Compensation Programs (OWCP) dated July 19, 2011. The appeal was docketed as No. 12-287.

The Board, having reviewed the case record submitted by OWCP, finds that the record is incomplete, as it must be consolidated with another claim file. Appellant, a 48-year-old mail carrier, injured his lower back and neck on November 26, 2001 when his mail truck was struck from behind by another vehicle. He filed a claim for benefits under case file number xxxxxx828, which OWCP accepted for lumbar sprain, aggravation of degenerative cervical intervertebral disc disease, cervicalgia, herniated lumbar disc and aggravation of degenerative lumbar intervertebral disc disease. Appellant also had separate claims accepted by OWCP for right and left shoulder impingement.

By letter to OWCP dated September 17, 2010, appellant's attorney requested that appellant receive a new impairment evaluation from a physician pursuant to the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*). Appellant had previously received a schedule award under the fifth edition of the A.M.A., *Guides*. He reiterated this request by letter dated October 14, 2010. Appellant

submitted a November 2, 2010 report from Dr. Sampath V. Charya, Board-certified in sleep medicine, who stated findings on examination, noted appellant's complaints of lumbar and cervical pain and reviewed the most recent diagnostic tests. This report, however, did not contain an impairment rating.

In a report dated March 31, 2011, an OWCP medical adviser reviewed Dr. Charya's report and found that he had a five percent right upper extremity impairment; and zero percent left upper extremity impairment; and five percent left lower extremity impairment; and a zero percent right lower extremity impairment under the sixth edition of the A.M.A., *Guides*. He also found that appellant reached maximum medical improvement on November 2, 2010, the date of Dr. Charya's report.

In a report dated July 1, 2011, an OWCP medical adviser indicated that appellant had previously received a schedule award for a 22 percent permanent impairment of the right upper extremity under a separate claim, case File No. xxxxxx916, based on an OWCP medical adviser's January 19, 2006 report. He recommended combining this award with the award for the five percent right upper extremity impairment calculated on March 31, 2011; this resulted in a 26 percent right upper extremity impairment, or a four percent additional schedule award.

By decision dated July 19, 2011, OWCP granted appellant a schedule award for a five percent impairment of the left leg/lower extremity and an additional four percent from the right arm/upper extremity. It stated that he was previously paid a 22 percent impairment of the right upper extremity by decision dated February 27, 2006.

The Board finds that the record is incomplete as it does not contain factual and medical evidence pertaining to the history of appellant's previously granted schedule award. As all the records pertaining to appellant's claim are necessary for complete consideration and adjudication of the issue raised on appeal, the Board, therefore, finds that the appeal docketed as No. 12-287 is not in posture for a decision as the Board is unable to render an informed adjudication of the case.

Accordingly, the July 19, 2011 decision will be set aside and remanded for reconstruction and consolidation of the case records to include the entire case file pertaining to case file numbers xxxxxx828 and xxxxxx916. After such further development as OWCP deems necessary, it should issue an appropriate decision to protect appellant's appeal rights.

IT IS HEREBY ORDERED THAT the July 19, 2011 decision of the Office of Workers' Compensation Programs be remanded for consolidation and reconstruction of the case records.

Issued: July 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