

had a six percent left upper extremity impairment for left carpal tunnel syndrome under the A.M.A., *Guides*. In a November 26, 2013 report, OWCP's medical adviser noted that he had previously rated five percent left upper extremity impairment for left carpal tunnel syndrome. He stated, however, that because appellant had previously received an award for 11 percent left upper extremity impairment, he was not entitled to an additional award for left upper extremity impairment based on left carpal tunnel syndrome. The medical adviser stated that, if the prior schedule award was based upon the fifth edition of the A.M.A., *Guides*, appellant's award would likely be reduced in his schedule award in light of the new methodology and criteria set forth in the sixth edition of the A.M.A., *Guides*. Therefore, OWCP's medical adviser found that appellant was not entitled to an increased award for left upper extremity impairment based on left carpal tunnel syndrome. He did not mention or review Dr. Smith's September 12, 2013 second opinion report.

By decision dated December 4, 2013, OWCP denied appellant's claim. In an August 18, 2014 decision, an OWCP hearing representative affirmed the December 4, 2013 decision. He stated that appellant was not entitled to an additional schedule award for his left upper extremity because he had previously been granted one percent impairment of the left upper extremity for abrasion or friction burns to his left finger, elbow, forearm and wrist, left forearm sprain and left lateral epicondylitis under case number xxxxxx731; and 10 percent impairment of the left upper extremity for left shoulder tendinitis, left shoulder impingement, acromioplasty of the left shoulder and arthroscopic decompression under case number xxxxxx151. The OWCP hearing representative further stated that, although OWCP's medical adviser failed to evaluate Dr. Smith's September 12, 2013 report, such action was not necessary since this only indicated that appellant had six percent left upper extremity impairment for left carpal tunnel syndrome, and he had already been awarded 11 percent impairment of the left upper extremity.

Section 20 C.F.R. § 10.126 requires OWCP to issue a decision containing findings of fact and a statement of reasons.¹ OWCP erred in its December 4, 2013 and August 18, 2014 decisions by failing to analyze Dr. Smith's second opinion report and provide sufficient reasons why it did not establish that appellant was entitled to an additional schedule award for left upper extremity impairment based on left carpal tunnel syndrome. OWCP's medical adviser erred in finding that appellant's previous awards for left upper extremity impairment precluded an additional award based on his accepted left carpal tunnel syndrome. As OWCP relied on this erroneous finding and did not make the required findings or provide a statement of reasons in its August 18, 2014 decision denying an additional schedule award, its decision was issued in error.

Accordingly, the case will be remanded to OWCP to enable it to properly consider the medical evidence submitted prior to the issuance of the August 18, 2014 decision, thoroughly evaluate the merits of appellant's claim, make findings of fact and provide reasons for its decision, pursuant to the standards set forth in 5 U.S.C. § 8128(a) and 20 C.F.R. § 10.126. After such further development as OWCP deems necessary, it should issue an appropriate decision to protect appellant's appeal rights.

¹ 20 C.F.R. § 10.126.

IT IS HEREBY ORDERED THAT the August 18, 2014 decision of the Office of Workers' Compensation Programs is set aside; the case record is remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: April 21, 2015
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

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