

evaluate appellant's impairment due to carpal tunnel syndrome under the sixth edition of the A.M.A., *Guides* and found that appellant had five percent impairment bilaterally due to carpal tunnel syndrome with a date of maximum medical improvement of September 28, 2008.³ On March 2, 2010 the claims examiner asked that the Office medical adviser address whether the schedule award previously received for carpal tunnel syndrome effected appellant's impairment rating for distal clavicle resection. On March 21, 2010 the Office medical adviser stated that appellant was currently entitled to 10 percent impairment based on his left shoulder condition and five percent impairment based on his previously awarded carpal tunnel syndrome. He found that appellant's total left upper extremity impairment was 15 percent based on the sixth edition of the A.M.A., *Guides*.

By decision dated April 12, 2010, the Office granted appellant a schedule award for an additional four percent impairment of the left upper extremity finding that he had previously received a schedule award for 11 percent impairment of the left upper extremity. Appellant requested reconsideration on May 11, 2010 and by decision dated August 17, 2010, the Office denied modification of its prior decision.

The Board has duly considered the matter and finds that this case is not in posture for decision as the record before the Board does not contain any information pertaining to appellant's carpal tunnel claim and the resulting schedule award. The Board concludes that all of the pertinent evidence reviewed by the Office in reaching appellant's permanent impairment rating is not in the record currently before the Board.

Section 501.2(c) of the Board's *Rules of Procedure*,⁴ provides that the Board has jurisdiction "to consider and decide appeals from the final decision of the Office in any case arising under the Act."⁵ Additionally, the Board's review of the case is limited to the evidence which was before the Office at the issuance of the final decision.⁶ Since the record as transmitted to the Board does not contain evidence that the Office relied upon in reaching its final decisions, the Board is unable to properly "consider and decide" appellant's claim.⁷ The August 17, 2010 decision of the Office must be set aside and the case remanded to the Office for reconstruction and proper assemblage of the case record including combining all the files regarding permanent impairment of appellant's left upper extremity. Following this and such further development as the Office deems necessary⁸, the Office shall issue an appropriate merit decision pursuant to 5 U.S.C. § 8128(b)(1) to preserve appellant's right to future appeals. Accordingly,

³ Claim number xxxxxx436 addresses appellant's carpal tunnel syndrome and resulting impairment.

⁴ 20 C.F.R. § 501.2(c).

⁵ 5 U.S.C. §§ 8101-8193.

⁶ 20 C.F.R. § 501.2(c)(1).

⁷ *Id.* at § 501.2(c).

⁸ The Board notes that the district medical director recommended that the Office refer appellant for a second opinion evaluation in order to accurately assess her permanent impairment due to all accepted conditions.

IT IS HEREBY ORDERED that the August 17, 2010 decision of the Office of Workers' Compensation Programs is set aside and the case remanded for further proceedings consistent with this order of the Board.

Issued: June 28, 2011
Washington, DC

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

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board