

employment injury and appellant's medical treatment and found no permanent impairment of the right and left upper extremities and left lower extremity based on the sixth edition of the A.M.A., *Guides*. On August 8, 2010 Dr. Arnold T. Berman, OWCP's medical adviser, reviewed Dr. Draper's July 26, 2010 report and concurred with his findings.

In a February 28, 2011 decision, an OWCP hearing representative denied appellant's claim for a schedule award. The hearing representative based the decision on an April 8, 2008 attending physician report by Dr. Joshua M. Ammerman, a Board-certified neurosurgeon, a March 18, 2010 second opinion report by Dr. Stuart J. Gordon, a Board-certified orthopedic surgeon, and a July 29, 2010 report by an OWCP medical adviser.

The Board has duly considered the matter and finds that the case is not in posture for a decision and must be remanded to OWCP. Section 10.126 of OWCP's regulations requires OWCP to issue a decision containing findings of fact and a statement of reasons.³ The Board finds that OWCP erred in its February 28, 2011 decision by failing to discuss or analyze the reports from Drs. Diamond, Draper and Berman. OWCP denied appellant's schedule award claim based on reports prepared by Drs. Ammerman and Gordon. However, the Board notes that these reports are not in the case record and there is no evidence of record that appellant was treated by either of these physicians or that these physicians were somehow involved in the development of appellant's claim. Thus, the Board concludes that the February 28, 2011 OWCP decision was defective in nature. For this reason, the case will be remanded to OWCP for reconstruction and proper assemblage of the record. Following this and any necessary further development, OWCP shall issue a *de novo* decision on the merits of the claim to preserve appellant's appeal rights.

³ 20 C.F.R. § 10.126.

IT IS HEREBY ORDERED THAT the February 28, 2011 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded to OWCP for further action consistent with this order of the Board.

Issued: April 12, 2012
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