



opinion regarding the extent of appellant's right upper extremity impairment consistent with the July/August 2009 edition of *The Guides Newsletter*.<sup>3</sup>

On June 16, 2011 OWCP referred appellant to Dr. Michael D. Plooster, a Board-certified orthopedic surgeon, for a second opinion examination. In a report dated July 13, 2011, Dr. Plooster found "significant cervical spine abnormalities" but noted that he was "not asked to comment nor rate the disability as it pertains specifically to the cervical spine." He asserted that the "origins of [appellant's] extremity problems are coming from the cervical spine and not from the upper extremities." Dr. Plooster advised that he would "do the best I can to give an impairment rating to the upper extremities. This, however, is not in line with a specific diagnosis that is causing [appellant's] anatomic and functional disability." Dr. Plooster selected the diagnosis of a brachial plexus impairment and used Table 15-20 on page 434 of the sixth edition of the A.M.A., *Guides* to find a 13 percent right upper extremity impairment and a 20 percent left upper extremity impairment. In a supplemental report dated August 15, 2011, he again noted that the "diagnosis in this case is cervical in origin and not brachial plexus...." On September 4, 2011 an OWCP medical adviser reviewed Dr. Plooster's report and concurred with his impairment rating using the brachial plexus diagnosis.

Dr. Plooster and OWCP's medical adviser agreed that appellant had a 13 percent right upper extremity impairment and a 20 percent left upper extremity impairment. Neither physician referred to the July/August 2009 Newsletter regarding spinal nerve extremity impairments. The sixth edition of the A.M.A., *Guides* does not provide a separate mechanism for rating spinal nerve injuries as impairments of the extremities. Recognizing that FECA allows ratings for extremities and precludes ratings for the spine, *The Guides Newsletter* offers an approach to rating spinal nerve impairments consistent with sixth edition methodology.<sup>4</sup> OWCP has adopted this approach for rating impairment of the upper or lower extremities caused by a spinal injury.<sup>5</sup> As the Board explained in its prior decision, OWCP should obtain an opinion that applies the July/August 2009 Newsletter to evaluate any impairment of an extremity caused by a spinal injury. As the medical evidence does not contain a report consistent with OWCP's procedures for rating an impairment from a spinal nerve injury, the case will be remanded for further development of the medical evidence. On remand OWCP should obtain an opinion regarding the extent of appellant's permanent impairment of the upper extremities due to his cervical spine injury consistent with *The Guides Newsletter*. Following this and any further development deemed necessary, it should issue an appropriate decision.

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<sup>3</sup> Christopher R. Brigham, MD, Rating Spinal Nerve Extremity Impairment Using the sixth edition, *The Guides Newsletter* (July/August 2009).

<sup>4</sup> *Id.*

<sup>5</sup> Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700, Exhibit 4 (January 2010).

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated November 30, 2011 is set aside and the case is remanded for further proceedings consistent with this order of the Board.

Issued: August 24, 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