

on loss of function of the lower extremity, in accordance with the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (hereinafter A.M.A., *Guides*).¹ Appellant was provided a form letter to give her physician for a lower extremity impairment evaluation and given 30 days to respond.

By decision dated March 23, 2010, OWCP denied appellant's claim for a schedule award, finding that she had not provided the requested medical evidence.

On March 28, 2010 appellant, through her representative, requested a telephone hearing before an OWCP hearing representative. At the July 1, 2010 hearing, counsel stated that appellant's physician could not provide an impairment rating for the left collateral ligament since she had a total knee replacement of the left knee.

In a July 22, 2010 medical report, Dr. Keith Berand, a treating physician, reported that appellant underwent a left total knee arthroplasty and had reached maximum medical improvement.

By decision dated September 20, 2010, an OWCP hearing representative found the evidence insufficient to establish permanent impairment and affirmed the March 23, 2010 decision.

On February 11, 2011 appellant, through her representative, requested reconsideration of the September 20, 2010 OWCP decision. In support of her request, she submitted an August 26, 2010 medical report from Dr. Martin Fritzhand, a Board-certified urologist, whose report provided information regarding her medical history, a description of the October 27, 2008 work injury and findings on physical examination. Dr. Fritzhand provided an impairment evaluation, using Chapter 16 (The Lower Extremities), of the sixth edition of the A.M.A., *Guides*, concluding that, based on Table 16-3 strain, tendinitis assuming mild motion deficits, appellant sustained a six percent permanent impairment of the left lower extremity.

By decision dated March 4, 2011, OWCP found the medical evidence insufficient to establish permanent impairment and affirmed the September 20, 2010 decision. The senior claims examiner noted that Dr. Fritzhand's opinion was not based on the accepted conditions or actual measurements of motion deficits.

In this case, the hearing representative made a medical determination without the benefit of medical advice or review by an OWCP medical adviser that appellant's injury did not cause or contribute to any permanent impairment. OWCP procedures provide that, after obtaining all necessary medical evidence, the file should be routed to the medical adviser for an opinion concerning the nature and percentage of any impairment in accordance with the A.M.A., *Guides*.² In this case, none of the medical evidence was forwarded to the medical adviser for review. For these reasons, the March 4, 2011 decision will be set aside and the case remanded to

¹ A.M.A., *Guides* (6th ed. 2009).

² Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6(d) (August 2002).

OWCP for review of the medical record by the medical adviser. Following such development as OWCP deems necessary, it shall issue an appropriate merit decision.

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' March 4, 2011 decision be set aside and the case remanded for further development consistent with this order.

Issued: March 26, 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