



In *Harry D. Butler*,<sup>2</sup> the Board noted that Congress delegated authority to the Director of OWCP regarding the specific methods by which permanent impairment is to be rated. Pursuant to this authority, the Director adopted the A.M.A., *Guides* as a uniform standard applicable to all claimants and the Board has concurred in the adoption.<sup>3</sup> On March 15, 2009 he exercised authority to advise that as of May 1, 2009 all schedule award decisions of OWCP should reflect use of the sixth edition of the A.M.A., *Guides*.<sup>4</sup> The applicable date of the sixth edition relates to the date of the schedule award decision. It is not determined by either the date of maximum medical improvement or when the claim for such award was filed.<sup>5</sup> The Board accordingly finds that the arguments presented are without merit regarding the February 23, 2011 OWCP decision on appeal.

The Board notes that counsel also briefly suggested that there was a conflict in the medical evidence<sup>6</sup> between Dr. David Bundens and Dr. David Weiss. There are no medical reports from Dr. Weiss in the case record. While appellant stated in his factual history there was a report from Dr. Weiss dated June 27, 2010, the most recent report from an attending physician is a December 6, 2007 report from Dr. Steven Allon. If appellant has additional relevant evidence, he may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit order, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

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<sup>2</sup> 43 ECAB 859 (1992).

<sup>3</sup> *Id.* at 866; 20 C.F.R. § 10.404.

<sup>4</sup> *Supra* note 1.

<sup>5</sup> *See D.O.*, Docket No. 11-350 (issued October 25, 2011).

<sup>6</sup> FECA provides that, if there is a disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician who shall make the examination. 5 U.S.C. § 8123(a).

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated February 23, 2011 is affirmed.

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