

**United States Department of Labor
Employees' Compensation Appeals Board**

<p>B.W., Appellant</p> <p>and</p> <p>DEPARTMENT OF VETERANS AFFAIRS, VETERANS ADMINISTRATION MEDICAL CENTER, Murfreesboro, TN, Employer</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Docket No. 12-1537</p> <p>Issued: January 14, 2013</p>
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<p><i>Appearances:</i></p> <p><i>Appellant, pro se</i></p> <p><i>Office of Solicitor, for the Director</i></p>	<p><i>Case Submitted on the Record</i></p>
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ORDER REMANDING CASE

Before:
RICHARD J. DASCHBACH, Chief Judge
PATRICIA HOWARD FITZGERALD, Judge
MICHAEL E. GROOM, Alternate Judge

On July 9, 2012 appellant filed a timely appeal from a March 30, 2012 nonmerit decision of the Office of Workers' Compensation Programs (OWCP) denying his request for reconsideration. The Board docketed the appeal as No. 12-1537.

OWCP accepted that appellant, then a 21-year-old nursing assistant, sustained an L5-S1 herniated nucleus pulposus as the result of a September 17, 1993 employment injury. By decision dated April 22, 2004, it denied his claim for a schedule award based on the opinion of the impartial medical examiner, Dr. Eston G. Norwood, a Board-certified neurologist. By decision dated October 21, 2004, OWCP denied appellant's claim for wage-loss compensation for the period June 29, 1998 to May 10, 1999 on the grounds that the disability was unrelated to his accepted employment injury. In decisions dated March 10, 2011, it denied modification of the April 22 and October 21, 2004 decisions. By decision dated March 30, 2012, OWCP denied appellant's request for merit review of the denial of his claim for a schedule award and the denial of wage-loss compensation for the period June 29, 1998 to May 10, 1999.

The Board, having reviewed the case record submitted by OWCP, finds that the record is incomplete as the medical reports identified by OWCP as creating a conflict in the medical opinion on the issue of appellant's schedule award and subsequent referral to Dr. Norwood, as the impartial medical examiner. The Board, therefore, finds that the appeal docketed as No. 12-

1537 is not currently in posture for a decision as the missing evidence would not allow for an informed adjudication on the part of this Board. Because the record forwarded by OWCP would not allow the Board an opportunity for an informed adjudication of the appeal, the case record will be returned to OWCP for reconstruction and proper assemblage of the record and, following any necessary further development, the issuance of an appropriate decision.

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' March 30, 2012 decision be set aside and the case remanded for further action in conformance with this order of the Board to be followed by an appropriate decision.

Issued: January 14, 2013
Washington, DC

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

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board