

On July 17, 2013 appellant, through her attorney, requested reconsideration of the July 23, 2012 decision.² In support of her request, she submitted a November 29, 2012 impairment evaluation from Dr. Ashraf Guirgues, an orthopedic surgeon, who provided findings on examination for her cervical and lumbar spine, shoulders and upper and lower extremities. Citing the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (6th ed. 2009), Dr. Guirgues determined that appellant had a 57 percent whole person impairment based on his evaluation of her cervical and lumbar spine, weakness in the arm and foot drop. By decision dated August 6, 2013, OWCP denied her reconsideration request after determining that it was untimely filed and did not present clear evidence of error.

The Board finds that OWCP erroneously adjudicated appellant's claim for a schedule award as a request for reconsideration. In schedule award cases, a distinction is made between an application for an additional schedule award and a request for reconsideration of the existing schedule award. When a claimant is asserting that the original award was erroneous based on his or her medical condition at that time, this is a request for reconsideration. However, even if the term reconsideration is used, when a claimant is not attempting to show error in the prior schedule award decision and submits medical evidence regarding a permanent impairment at a date subsequent to the prior schedule award decision, it should be considered a claim for an additional schedule award.³ In such a case, OWCP should issue a merit decision on the schedule award claim, rather than adjudicate an application for reconsideration.⁴ As appellant submitted new medical evidence addressing the issue of whether she had a permanent impairment due to her work injury, the Board finds that OWCP erroneously issued a denial of her request for reconsideration under the clear evidence of error standard. On remand, OWCP should review the medical evidence and issue an appropriate decision regarding her claim for a schedule award.

² By decision dated January 2, 2013, OWCP terminated appellant's wage-loss compensation and authorization for medical benefits effective January 3, 2013 on the grounds that she had no further employment-related disability or need for medical treatment.

³ See *E.T.*, Docket No. 13-1691 (issued September 25, 2013); *T.S.*, Docket No. 12-1781 (issued February 12, 2013).

⁴ See *B.K.*, 59 ECAB 228 (2007); *Candace A. Karkoff*, 56 ECAB 622 (2005); see also Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.3(b) (October 2011).

IT IS HEREBY ORDERED THAT the August 6, 2013 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this order of the Board.

Issued: April 8, 2014
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board