



utilizing the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*).

By decision dated February 15, 2012, OWCP found the evidence insufficient to establish that appellant was entitled to a schedule award. This decision was affirmed by an OWCP hearing representative on August 20, 2012. On December 17, 2012 appellant's attorney requested reconsideration. He submitted a May 21, 2012 electromyography test and a November 6, 2012 report by Dr. Weiss. Counsel noted that Dr. Weiss reexamined appellant on November 6, 2012 and provided his new findings on examination. Dr. Weiss provided an impairment rating based on the November 6, 2012 physical examination findings using the sixth edition of the A.M.A., *Guides*. By decision dated March 28, 2013, OWCP denied appellant's request for reconsideration on the grounds that his current condition was not relevant to whether modification of the August 20, 2012 decision was warranted.

The Board finds that appellant alleged that his condition had worsened and submitted new medical evidence regarding his current condition. The Board has repeatedly held that a claimant may request a schedule award or increased schedule award based on evidence of a new exposure or medical evidence showing the possible progression of an employment-related condition resulting in permanent impairment or increased impairment.<sup>3</sup> The Board finds, therefore, that OWCP applied the wrong standard of review as appellant was requesting an increased schedule award and OWCP should not have applied the standard for timely reconsideration requests. On remand, OWCP should review and develop the medical evidence and issue a *de novo* decision regarding his request for an increased schedule award.

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<sup>3</sup> See *Linda T. Brown*, 51 ECAB 115 (1999); *Paul R. Reedy*, 45 ECAB 488 (1994 ); see also *B.K.*, 59 ECAB 228 (2007) (where it was evident that the claimant was seeking a schedule award based on new and current medical evidence, OWCP should have issued a merit decision on the schedule award claim rather than adjudicate an application for reconsideration).

**IT IS HEREBY ORDERED THAT** the March 28, 2013 decision of the Office of Workers' Compensation Programs is set aside and the case remanded for further development consistent with this order of the Board.

Issued: March 5, 2014  
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