



The Board has duly reviewed the matter and finds that the case is not in posture for decision. As noted, OWCP issued a formal decision on appellant's wage-earning capacity on August 21, 2006. Board precedent and OWCP procedures direct the claims examiner to consider the criteria for modification of a loss of wage-earning capacity (LWEC) determination when a claimant requests resumption of compensation for total wage loss.<sup>2</sup> While appellant's counsel used the term reconsideration in his requests, he argued that the August 21, 2006 decision was in error.<sup>3</sup> The Board finds that OWCP should have adjudicated the issue of modification of the LWEC determination.<sup>4</sup> The Board will therefore remand the case to OWCP for proper adjudication, to be followed by a *de novo* decision to preserve appellant's appeal rights.

**IT IS HEREBY ORDERED THAT** the December 2, 2014 Office of Workers' Compensation Programs' decision be set aside and the case remanded to OWCP for further proceedings consistent with this order.

---

<sup>2</sup> *Katherine T. Kregar*, 55 ECAB 633 (2004); *Sharon C. Clement*, 55 ECAB 552 (2004). See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Modification of Loss of Wage-Earning Capacity Decisions*, Chapter 2.1501.4(a) (June 2013) (if a claim for wage loss is received, OWCP should review the file to determine whether a formal LWEC is in place, and, if so, the claim should be developed, if necessary, as a request for modification of the LWEC).

<sup>3</sup> Once the wage-earning capacity of an injured employee is determined, a modification of such determination is not warranted unless there is a material change in the nature and extent of the injury-related condition, the employee has been retrained or otherwise vocationally rehabilitated, or the original determination was, in fact, erroneous. *Stanley B. Plotkin*, 51 ECAB 700 (2000); see Federal (FECA) Procedure Manual, *id.* at Chapter 2.1501.3(a) (June 2013); 20 C.F.R. § 10.511.

<sup>4</sup> See *F.B.*, Docket No. 09-99 (issued July 21, 2010).

Issued: May 20, 2015  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board