

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

_____)	
J.M., Appellant)	
)	
and)	Docket No. 19-1213
)	Issued: May 29, 2019
DEPARTMENT OF THE AIR FORCE,)	
LAUGHLIN AIR FORCE BASE, Del Rio, TX,)	
Employer)	
_____)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:
CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge

On May 6, 2019 appellant filed an appeal from an April 25, 2019 decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 19-1213.

The Board has duly considered the matter and finds that the case is not in posture for decision and must be remanded to OWCP.

OWCP has accepted that appellant sustained an employment injury and accepted his claim for left shoulder region joint pain; other affections of the left shoulder not elsewhere classified; sprain of the left shoulder and upper arm, supraspinatus; bilateral neck sprain' and left elbow contusion. On September 13, 2014 appellant filed a claim for a schedule award (Form CA-7). Following development of the claim by OWCP, by decision dated January 7, 2015, his claim for a schedule award was accepted and compensation was paid based upon findings of five percent left upper extremity permanent impairment and three percent right upper extremity permanent impairment. On August 11, 2017 appellant filed a claim for an increased schedule award (Form CA-7). By decision dated November 3, 2017, his increased schedule award claim was denied as it found that he had not submitted evidence containing a rating of permanent impairment greater than that previously awarded. On December 5, 2017 appellant requested an oral hearing. In a letter dated April 9, 2018, he was notified of the time and date of the scheduled hearing, but he did

not appear at the hearing. By decision dated May 31, 2018, appellant's claim for an increased schedule award remained denied as he had not attended the scheduled hearing or subsequently explain his failure to appear.

On April 15, 2019 appellant filed a claim for an increased schedule award (Form CA-7). By letter dated April 25, 2019, OWCP notified him that no further action would be taken regarding the increased schedule award claim which was in effect a denial of his claim.

The schedule award provisions of the Federal Employees' Compensation Act¹ and its implementing federal regulations² set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss, or loss of use, of scheduled members or functions of the body. OWCP procedures allow an appellant to request an increased schedule award at any time based on evidence of a new exposure or medical evidence showing progression of an employment-related condition resulting in permanent impairment or increased permanent impairment.³

The Board finds that appellant's April 15, 2019 filing of a Form CA-7 was a new claim for an increased schedule award. The April 25, 2019 decision failed to adjudicate appellant's claim for an increased schedule award. Therefore, the case shall be remanded for OWCP to further develop the claim for an increased schedule award and thereafter issued a *de novo* decision.⁴

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.404.

³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.9 (March 2017).

⁴ *Id.* at Chapter 2.808.8(c) (March 2017).

IT IS HEREBY ORDERED THAT the April 25, 2019 decision is set aside and the case is remanded to OWCP for further action consistent with this order of the Board.

Issued: May 29, 2019
Washington, DC

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

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board