

for OWCP to follow the procedures set forth in FECA Bulletin No. 17-06², to be followed by a *de novo* decision.

Subsequent to the Board's April 10, 2018 decision, OWCP referred appellant to Dr. Joseph McGowin, III, a Board-certified orthopedic surgeon, for a second-opinion examination and an evaluation of his permanent impairment. Dr. McGowin submitted a July 11, 2018 report to OWCP, which does not include page four. As such, this report does not contain physical examination findings other than to indicate loss of elbow motion. Further, the report only generally included a statement that appellant had eight percent permanent impairment for diagnoses of lateral epicondylitis and ulnar neuropathy. However, in the report's conclusion, Dr. McGowin found that appellant had nine percent permanent impairment based on the range of motion (ROM) methodology set forth in the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*).³

Dr. McGowin's report was forwarded to Dr. Amanda D. Trimpey, Board-certified in preventive medicine and serving as a district medical adviser. In an August 1, 2018 report, Dr. Trimpey noted that Dr. McGowin's report did not include rating calculations, examination findings, or the methodology used in reaching his impairment ratings. Nonetheless, she found that appellant had six percent permanent impairment under the diagnosis-based impairment method for rating permanent impairment for a diagnosis of lateral epicondylitis and nine percent permanent impairment under the ROM method.

By decision dated August 8, 2018, OWCP granted appellant a schedule award for nine percent permanent impairment of the right arm, less seven percent previously paid, for an increased schedule award of two percent.⁴

The Board has duly considered the matter and finds that this case is not in posture for decision.

Section 501.2(c) of the Board's *Rules of Procedure*,⁵ provides that the Board has jurisdiction "to consider and decide appeals from final decisions of OWCP in any case arising under the [Federal Employees' Compensation] Act" (FECA).⁶ Since the record as transmitted to the Board does not contain a complete copy of Dr. McGowin's July 11, 2018 second-opinion evaluation, the Board is unable to properly "consider and decide" appellant's claim for a schedule award.

The case shall therefore be remanded to OWCP for reconstruction and proper assemblage of the case record, including obtaining a complete copy of Dr. McGowin's July 11, 2018 report, if

² FECA Bulletin No. 17-06 (issued May 8, 2017).

³ A.M.A., *Guides* (6th ed. 2009).

⁴ By decision dated April 3, 2013, appellant was granted a schedule award for seven percent permanent impairment of the right arm.

⁵ 20 C.F.R. § 501.2(c).

⁶ 5 U.S.C. § 8101 *et seq.*

available, or obtaining a new second opinion report as to appellant's upper extremity permanent impairment under the A.M.A., *Guides*. Following this and such further development as deemed necessary, OWCP shall issue a *de novo* decision.⁷ Accordingly,

IT IS HEREBY ORDERED THAT the January 7, 2019 and August 8, 2018 decisions are set aside and the case is remanded to OWCP for proceedings consistent with this order of the Board.

Issued: October 22, 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

⁷ In light of the Board's disposition as to the merits of appellant's schedule award claim, the issue of whether OWCP properly denied reconsideration in its January 7, 2019 nonmerit decision is rendered moot.