

contusion of the lip, and right thumb sprain. On May 25, 2010 OWCP expanded acceptance of appellant's July 3, 2006 claim to include bilateral knee contusions and a broken tooth. On July 11, 2012 it authorized left total knee arthroplasty which was performed on March 13, 2015. On May 1, 2014 OWCP authorized right knee total arthroplasty, which was performed on July 18, 2014. On January 9, 2015 it expanded acceptance of appellant's July 3, 2006 traumatic injury claim to include permanent aggravation of bilateral knee degenerative joint disease.

On July 8, 2016 appellant filed a schedule award claim (Form CA-7) in her July 27, 2002 traumatic injury claim. On October 12, 2016 she filed a schedule award claim (Form CA-7) in her July 3, 2006 traumatic injury claim.

By decision dated July 14, 2017, OWCP granted appellant a schedule award for 25 percent permanent impairment of each lower extremity. On July 24, 2017 appellant, through counsel, requested an oral hearing, held on November 15, 2017. By decision dated January 30, 2018, OWCP's hearing representative found a conflict of medical opinion evidence between appellant's physician and OWCP's district medical adviser (DMA) regarding the extent of appellant's bilateral lower extremity permanent impairment. She set aside the July 14, 2017 decision and remanded the case for OWCP to make a referral to an impartial medical examiner (IME) to resolve the existing conflict of medical opinion evidence.

On February 27, 2018 OWCP referred appellant, a statement of accepted facts (SOAF) which it indicated was dated May 15, 2015,³ and a list of specific questions, for an IME with Dr. Robert Elkins, a Board-certified orthopedic surgeon, for review and determination of the extent of permanent impairment for the purposes of a schedule award. In a supplemental letter to Dr. Elkins, dated March 9, 2018, it confirmed the date and time of the scheduled examination and again noted that it had attached a SOAF and list of questions prepared by the claims examiner. In his report dated May 23, 2018, Dr. Elkins noted that he examined appellant and had reviewed medical records and a SOAF dated June 15, 2012.

The Board, having duly considered the matter, finds that this case is not in posture for decision.⁴

The June 15, 2012 SOAF did not reflect the most recent accepted condition of permanent aggravation of degenerative joint disease in bilateral knees, which was accepted on January 9, 2015. It also did not reflect appellant's accepted bilateral total knee replacement surgeries, which occurred on July 18, 2014 and March 13, 2015. OWCP's procedures provide that, when a DMA, second opinion specialist, or IME renders a medical opinion based on a SOAF, which is incomplete or inaccurate, or does not use the SOAF as the framework in forming his or her opinion, the probative value of the opinion is seriously diminished or negated altogether.⁵

³ The Board notes that the record transmitted to the Board does not contain a SOAF dated May 15, 2015. The only SOAF of record is dated June 15, 2012.

⁴ *D.S.*, Docket No. 19-0025 (issued September 3, 2019).

⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Statements of Accepted Facts*, Chapter 2.809.5 (September 2009); *A.C.*, Docket No. 07-2423 (issued May 15, 2008).

While Dr. Elkins agreed with the impairment rating provided in the DMA's March 26, 2017 report, the Board finds that he was not provided a complete and accurate framework, rendering his opinion of limited probative value.⁶

The Board therefore finds that further development is required. On remand OWCP should prepare an updated SOAF and refer the case file and relevant reports to Dr. Elkins for a reasoned opinion regarding the extent of appellant's permanent impairment of the bilateral lower extremities. Following such further development as deemed necessary, it shall issue a *de novo* decision.⁷ Accordingly,

IT IS HEREBY ORDERED THAT the January 14, 2019 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further development consistent with this order of the Board.

Issued: April 2, 2020
Washington, DC

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

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board

⁶ *F.R.*, Docket No. 17-1711 (issued September 6, 2018); *L.J.*, Docket No. 14-1682 (issued December 11, 2015).

⁷ *D.D.*, Docket No. 16-0558 (issued August 5, 2016).