

proof to terminate appellant's medical benefits, effective August 8, 2019, as she no longer had residuals of her accepted employment-related conditions; and (3) whether appellant has met her burden of proof to establish more than 12 percent permanent impairment of her left lower extremity, for which she previously received a schedule award.

FACTUAL HISTORY

On September 26, 2018 appellant, then a 55-year-old practical nurse, filed a traumatic injury claim (Form CA-1) alleging that on September 20, 2018 she fell on a wet floor and sustained multiple contusions while in the performance of duty. She stopped work on September 21, 2018. OWCP accepted the claim for contusions of the left shoulder, left thorax back wall, left hip, and left ankle, as well as left ankle sprain.

In a November 1, 2018 report, Dr. Kristina L. Welton, an orthopedic sports medicine specialist, reported that appellant's left hip pain started on September 20, 2018 with marked recalled trauma and with previous complaints. She noted the history of appellant's September 20, 2018 employment injury, that she had a prior history of left hip complaints, and had previously undergone lumbar surgery. After reviewing x-ray findings, and providing examination findings, Dr. Welton diagnosed left gluteal tendinopathy bursitis and gluteus medias tendinopathy as well as likely contribution from upper lumbar radiculopathy causing significant disability. She referred appellant to physical therapy for greater trochanteric bursitis, left.

Dr. Mario Alinea, a Board-certified family practitioner, saw appellant on November 14, 2018 for left hip and ankle pain.

In November 2 and 20, 2018 reports, Dr. Cody Hoover, a Board-certified podiatrist, noted appellant's history of injury and indicated that appellant described an inversion ankle sprain. He reported that appellant walked with a limp and ambulated with a cane. Dr. Hoover indicated that the left ankle had pain diffusedly to the lateral ankle as well as medial side, especially the deltoid ligament. However, there was very minimal diffuse swelling to the ankle joint laterally and left foot/ankle x-rays had no radiographic findings to correlate with clinical concerns. Tenderness of the ligaments and guarded ankle range of motion were noted in all quadrants, with pain elicited on ligament stress maneuvers left. In a November 20, 2018 report, Dr. Hoover noted examination findings and provided assessment of left ankle sprain, pain of left ankle joint, and peroneal tendinitis left side, for which he referred her for physical therapy. He indicated that appellant had no restrictions for work, if she could handle working with pain. In a December 19, 2018 report, Dr. Hoover noted that appellant felt there was an improvement of left Achilles from physical

therapy. He also noted that she returned to work (light duty) on December 6, 2018 and was tolerating it well.

Physical therapy reports dated December 21, 2018³ and January 16, 2019 were submitted to the record.

In a January 9, 2019 report, Dr. Welton indicated that appellant's left lateral hip pain due to GT bursitis and gluteus medium tendinopathy and posterior hip pain/burning likely came from the lumbar spine/nerves and not from her hip as all provocative hip testing was negative.

In a February 12, 2019 report, Dr. Alinea noted that appellant was back to work and tolerating her left hip and left ankle pain. He indicated that physical therapy was pending following OWCP's examination. In a February 12, 2019 duty status report (Form CA-17), Dr. Alinea opined that appellant could resume full-time work with restrictions.

In a February 20, 2019 report, Dr. Clarence Fossier, a Board-certified orthopedic surgeon and OWCP second opinion examiner, noted appellant's history of injury, his review of the statement of accepted facts (SOAF) and review of the medical records. He noted examination findings and opined that the residuals of her accepted employment-related conditions of left shoulder contusion, left hip contusion, contusion of the left thorax back wall, contusion of the left ankle, and left ankle sprain had resolved. Dr. Fossier noted that, while appellant had tenderness to palpation over the greater trochanter of the left hip, there were no clinical signs of bruising or swelling and she had full range of motion. He also noted that she had tenderness to palpation about her ankle. Dr. Fossier explained that, even though appellant remained tender, both the hip contusion and ankle sprain would have healed long ago.

By notice dated March 6, 2019, OWCP advised appellant that it proposed to terminate her medical benefits based on Dr. Fossier's opinion that the accepted conditions had resolved without residuals. It afforded her 30 days to submit additional evidence or argument challenging the proposed action.

Appellant filed a claim for compensation (Form CA-7) on March 25, 2019, claiming compensation due to time lost from work to obtain medical care and for disability for her accepted employment-related conditions for the period December 26, 2018 to February 20, 2019. In a time analysis form (Form CA-7a), she claimed leave without pay (LWOP) for a total of 29.5 hours as follows: 2.5 hours on December 26, 2018; 2 hours on January 2, 2019 for physical therapy; 2 hours on January 3, 2019 for physical therapy; and 2 hours on January 4, 2019 for physical therapy; 2 hours on January 8, 2019; 2 hours on January 10, 2019 for physical therapy; 2 hours on January 11, 2019; 2 hours on January 14, 2019 for a medical appointment; 2 hours on January 15, 2019 for physical therapy; 2 hours on January 16, 2019; 2 hours on January 17, 2019 for physical therapy; 2 hours on January 18, 2019 for physical therapy; 2.5 hours on January 22, 2019 for a medical appointment; 3 hours on February 12, 2019 for a medical appointment; and 4 hours on February 20, 2019 for an OWCP-directed medical appointment. The employing establishment

³ The December 21, 2018 physical therapy report noted services for trochanteric bursitis, left hip.

verified that it had medical documentation to verify the dates claimed for January 22 and February 20, 2019.

A Form CA-17 report dated December 26, 2018 indicated that appellant could return to work for six hours per day, but did not provide a diagnosis causally related to the accepted employment injury. Form CA-17 reports dated January 15 and 22, February 12, and March 12 and 21, 2019 indicated that appellant could return to full-time work.

In a March 26, 2019 development letter, OWCP notified appellant that the dates claimed for physical therapy were not supported as causally related to her accepted conditions. Appellant was additionally notified of the additional evidence required to establish disability as there were dates claimed with either partial leave and/or no medical treatment or appointments were indicated. OWCP advised appellant of the type of evidence needed to establish her wage-loss claim, including rationalized medical opinion evidence from her physician for the dates claimed. It afforded her 30 days to submit the requested evidence.

OWCP received an April 4, 2019 patient visit summary which verified physical therapy services were performed on December 21 and 26, 2018 and January 16 and 25, 2019. It also received an April 17, 2019 note from Dr. Welton, which verified that appellant was seen for her left hip on November 1, 2018 and January 9, 2019.

On May 3, 2019 OWCP received a Form CA-7 claiming compensation for leave buy back due to lost time from work to obtain medical care for her accepted employment-related conditions from December 21, 2018 to March 21, 2019. In a Form CA-7a, appellant claimed three hours of LWOP on December 21, 2018 and four hours LWOP on March 21, 2019 for medical appointments.

On May 3, 2019 appellant filed a claim for a schedule award (Form CA-7).

In a development letter of May 17, 2019, OWCP informed appellant of the requirements and evidence necessary to establish a schedule award under the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*).⁴ Appellant was accorded 30 days to submit the required evidence.

By decision dated May 17, 2019, OWCP denied, in part, appellant's wage-loss claim for the period December 26, 2018 and continuing. It found that the evidence of record did not support that the dates and hours claimed supported either medical treatment or disability from work due to the accepted conditions. However, pending verification of the total LWOP from the employing establishment, OWCP found that the evidence was sufficient to support that appellant sought treatment for her accepted conditions for 2.5 hours on December 26, 2018; 2 hours on January 15, 2019; 2.5 hours on January 22, 2019; 3 hours on February 12, 2019; 4 hours on February 20, 2019; and 4 hours on March 21, 2019.

In a May 17, 2019 development letter, OWCP advised appellant of the deficiencies and the necessary evidence required to support that she obtained care for her accepted employment-related medical conditions for three hours claimed on December 21, 2018. It advised that the

⁴ A.M.A., *Guides* (6th ed. 2009).

December 21, 2018 physical therapy report indicated treatment related to nonaccepted conditions of left hip bursitis, and not her accepted left hip contusion. OWCP afforded appellant 30 days to submit a medical note or therapy slip verifying treatment due to the accepted employment-related conditions.

In a May 29, 2019 letter, Dr. Alinea indicated that appellant had reached maximum medical improvement (MMI) as of May 29, 2019.

By decision dated July 31, 2019, OWCP denied, in part, appellant's wage-loss compensation claim for the period December 21, 2018 through March 21, 2019. It found that the evidence supported treatment for her accepted conditions for 4 hours on March 21, 2019. However, the evidence was insufficient to support treatment for three hours on December 21, 2018 causally related to her accepted conditions.

By decision dated August 8, 2019, OWCP denied appellant's claim for a schedule award as no permanent impairment rating had been received.

By decision dated August 14, 2019, OWCP terminated appellant's medical benefits, effective August 8, 2019, finding that the weight of the medical evidence was afforded to the February 20, 2019 report of Dr. Fossier.

On August 18, 2019 appellant requested reconsideration regarding the August 8, 2019 denial of her schedule award claim.

In support of her request for reconsideration, appellant submitted a July 1, 2019 impairment report from Dr. Laura R. Kaufman, a Board-certified family practitioner and occupational medicine specialist, who opined that appellant had a combined 12 percent left lower extremity permanent impairment. Dr. Kaufman noted that appellant had 12 percent left hip and knee permanent impairment from a previous FECA claim with no additional impairment due to her current employment injury. Under the sixth edition of the A.M.A, *Guides*, she opined that appellant had one percent lower extremity impairment of the left ankle.⁵

By decision dated September 18, 2019, OWCP denied appellant's schedule award claim as the medical evidence did not support an increase in permanent impairment. It found that the July 1, 2019 impairment rating was insufficient to establish her claim for a schedule award because she had previously received a schedule award for 12 percent permanent impairment of the left lower extremity.

⁵ Under OWCP File No. xxxxxx993, OWCP accepted that appellant fell while in the performance of duty on April 21, 2016 and sustained contusions of the left knee and left hip. It granted appellant a schedule award for 12 percent left lower extremity permanent impairment consisting of 2 percent permanent impairment of the left hip and 10 percent permanent impairment of the left knee, under that claim.

LEGAL PRECEDENT -- ISSUE 1

An employee seeking benefits under FECA⁶ has the burden of proof to establish the essential elements of his or her claim.⁷ Under FECA the term disability means incapacity, because of an employment injury, to earn the wages that the employee was receiving at the time of injury.⁸ For each period of disability claimed, the employee has the burden of proof to establish that he or she was disabled from work as a result of the accepted employment injury.⁹ Whether a particular injury causes an employee to become disabled from work, and the duration of that disability, are medical issues that must be proven by a preponderance of probative and reliable medical opinion evidence.¹⁰

The Board will not require OWCP to pay compensation for disability in the absence of medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so, would essentially allow an employee to self-certify his or her disability and entitlement to compensation.¹¹

For a routine medical appointment, a maximum of four hours of compensation for time lost to obtain medical treatment is usually allowed.¹²

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met her burden of proof to establish intermittent disability from work for the period from December 21, 2018 to January 18, 2019 causally related to her accepted September 20, 2018 employment injury.¹³

Appellant claimed three hours of wage loss for physical therapy treatment on December 21, 2018. The December 21, 2018 physical therapy report indicated treatment related to the nonaccepted condition of left hip bursitis, not her accepted left hip contusion.¹⁴ On May 17,

⁶ *Supra* note 1.

⁷ *See L.S.*, Docket No. 18-0264 (issued January 28, 2020); *B.O.*, Docket No. 19-0392 (issued July 12, 2019).

⁸ 20 C.F.R. § 10.5(f); *J.S.*, Docket No. 19-1035 (issued January 24, 2020).

⁹ *T.W.*, Docket No. 19-1286 (issued January 13, 2020).

¹⁰ *S.G.*, Docket No. 18-1076 (issued April 11, 2019); *Fereidoon Kharabi*, 52 ECAB 291 (2001).

¹¹ *See M.J.*, Docket No. 19-1287 (issued January 13, 2020); *William A. Archer*, 55 ECAB 674 (2004).

¹² *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Compensation Claims*, Chapter 2.901.19(c) (February 2013); *see also K.A.*, Docket No. 19-0679 (issued April 6, 2020); *William A. Archer*, *id.*

¹³ Regarding appellant's claim for wage-loss compensation for 2.5 hours on December 26, 2018, 2 hours on January 15, 2019, 2.5 hours on January 22, 2019, 3 hours on February 12, 2019, 4 hours on February 20, 2019 and 4 hours on March 21, 2019, the Board notes that OWCP has already accepted, pending verification from the employing establishment, that she is entitled to 18 total hours of wage-loss compensation for time lost to obtain medical treatment on those dates. OWCP has paid appellant wage-loss compensation for four hours of wage-loss on March 21, 2019.

¹⁴ *Supra* note 3.

2019 OWCP advised appellant on a medical note or therapy slip, which verified treatment due to the accepted employment-related conditions was necessary and afforded her 30 days to submit such evidence. However, the record is devoid of rationalized medical evidence which indicates that the physical therapy treatment sought on December 21, 2018 for left hip contusion was causally related to the September 20, 2018 employment injury.¹⁵

Appellant also claimed 2 hours of wage-loss on January 2, 3, 4, 8, 10, 11, 14, 16, 17, and 18, 2019 for a total of 20 hours. As noted above, an employee is entitled to disability compensation for any loss of wages incurred during the time he or she receives authorized treatment and for loss of wages for time spent incidental to such treatment.¹⁶ Appellant was advised by OWCP of the evidence necessary to support that she obtained medical care for her accepted employment-related medical conditions on those dates. However, the evidence of record is devoid of any documentation that appellant received medical care for her accepted employment-related medical conditions on those dates.

The Board further finds that appellant has not met her burden of proof to establish entitlement to wage-loss compensation for the claimed dates of disability causally related to her accepted September 20, 2018 employment injury as there is no medical evidence of record sufficient to establish additional disability from work for those dates.

OWCP received a December 26, 2018 CA-17 which indicated that appellant could only work for six hours per day. However, this report did not indicate that appellant was disabled due to her accepted conditions.¹⁷ ACA-17 report dated January 15, 2019 indicated that appellant could return to full-time work, which negates disability for the remainder of the claimed period. Therefore, these reports are insufficient to establish appellant's claim for compensation.

Dr. Welton treated appellant on January 9, 2019. However, her report is insufficient to meet appellant's burden of proof as she did not address the issue of disability from work. The Board has held that evidence that does not address the accepted conditions and dates of disability are insufficient to establish the claim.¹⁸

As the medical evidence of record does not contain a rationalized opinion establishing causal relationship between appellant's claimed periods of disability and/or medical care sought for 3 hours on December 21, 2018 and for 2 hours each on January 2, 3, 4, 8, 10, 11, 14, 16, 17 and 18, 2019 and her accepted September 20, 2018 employment injury, the Board finds that she has not met her burden of proof.¹⁹

¹⁵ See *R.M.*, Docket No. 18-1067 (issued May 7, 2020).

¹⁶ *Supra* note 12.

¹⁷ *A.V.*, Docket No. 19-1575 (issued June 11, 2020); *V.G.*, Docket No. 18-0936 (issued February 6, 2019).

¹⁸ *A.V.*, *id.*; *A.W.*, Docket No. 18-0589 (issued May 14, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁹ *M.N.*, Docket No. 18-0741 (issued April 2, 2020); *J.W.*, Docket No. 19-1688 (issued March 18, 2020).

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128 and 20 C.F.R. §§ 10.605 through 10.607.

LEGAL PRECEDENT -- ISSUE 2

Once OWCP accepts a claim and pays compensation, it has the burden of proof to justify termination or modification of an employee's benefits.²⁰

The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.²¹ To terminate authorization for medical treatment, OWCP must establish that appellant no longer has residuals of an employment-related condition, which would require further medical treatment.²²

ANALYSIS -- ISSUE 2

The Board finds that OWCP has met its burden of proof to terminate appellant's medical benefits, effective August 8, 2019, as she no longer had residuals of her accepted employment-related conditions.

OWCP relied upon the February 20, 2019 second opinion report of Dr. Fossier in finding that appellant had no continuing residuals. In his report, Dr. Fossier noted appellant's history of injury, and his review of the SOAF and the medical records. He noted examination findings and opined that the residuals of appellant's accepted employment-related conditions of left shoulder contusion, left hip contusion, contusion of the left thorax back wall, contusion of the left ankle, and left ankle sprain had resolved. Dr. Fossier noted that while appellant had tenderness to palpation over the greater trochanter of the left hip, there were no clinical signs of bruising or swelling and she had full range of motion. He explained that, even though appellant noted tenderness of the left hip and ankle, the hip and ankle contusions and ankle sprain would have healed long ago.

The Board finds that Dr. Fossier's report represented the weight of the medical evidence at the time OWCP terminated appellant's medical benefits effective August 8, 2019. The Board finds that Dr. Fossier had full knowledge of the relevant facts and evaluated the course of appellant's accepted work-related conditions. Dr. Fossier's opinion was based on proper factual and medical history and his report contained a detailed summary of this history. He addressed the medical records with his own examination findings to reach a reasoned conclusion regarding appellant's conditions.²³ At the time benefits were terminated, Dr. Fossier found no basis on which

²⁰ *D.G.*, Docket No. 19-1259 (issued January 29, 2020); *S.F.*, 59 ECAB 642 (2008); *Kelly Y. Simpson*, 57 ECAB 197 (2005); *Paul L. Stewart*, 54 ECAB 824 (2003).

²¹ *J.W.*, Docket No. 19-1014 (issued October 24, 2019); *L.W.*, Docket No. 18-1372 (issued February 27, 2019).

²² *L.S.*, Docket No. 19-0959 (issued September 24, 2019); *R.P.*, Docket No. 18-0900 (issued February 5, 2019).

²³ See *W.C.*, Docket No. 18-1386 (issued January 22, 2019); *Melvina Jackson*, 38 ECAB 443 (1987) (regarding the importance, when assessing medical evidence, of such factors as a physician's knowledge of the facts and medical history, and the care of analysis manifested and the medical rationale expressed in support of the physician's opinion).

to attribute any residuals to appellant's accepted conditions. His opinion is found to be probative evidence and reliable. Thus, Dr. Fossier's opinion is sufficient to justify OWCP's termination of medical benefits for the accepted conditions.

Appellant submitted several reports from Drs. Hoover, Welton, and Alinea. These reports, which predate Dr. Fossier's February 20, 2019 report, do not contain a rationalized opinion supporting that appellant continued to have residuals of her accepted medical conditions. Rather Dr. Welton indicated in her January 9, 2019 report that appellant's left lateral hip pain was due to GT bursitis and gluteus medium tendinopathy and that the posterior hip pain/burning likely came from the lumbar spine/nerves and not from her hip as all provocative hip testing was negative. Dr. Hoover, in his December 19, 2018 report, noted that appellant was tolerating her December 6, 2018 return to work (light duty) well, and Dr. Alinea opined, in a February 12, 2019 Form CA-17 report, that appellant could resume full-time work with restrictions. Neither these reports nor any of the medical reports received after Dr. Fossier's report supported that appellant continued to have residuals of her accepted conditions which required further medical treatment.

Accordingly, the Board finds that Dr. Fossier's opinion constitutes the weight of the medical evidence and supports OWCP's termination of appellant's medical benefits effective August 8, 2019.²⁴

LEGAL PRECEDENT -- ISSUE 3

The schedule award provisions of FECA,²⁵ and its implementing federal regulations,²⁶ 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. However, FECA does not specify the manner in which the percentage of loss shall be determined. For consistent results and to ensure equal justice under the law for all claimants, OWCP has adopted the A.M.A., *Guides* as the uniform standard applicable to all claimants.²⁷ For decisions issued after May 1, 2009, the sixth edition of the A.M.A., *Guides* is used.²⁸ The sixth edition of the A.M.A., *Guides* provides a diagnosis-based method of evaluation utilizing the World Health Organization's International Classification of Functioning, Disability and Health (ICF).²⁹

In addressing lower extremity impairment, the sixth edition requires identifying the impairment class of diagnosis (CDX), which is then adjusted by grade modifiers based on

²⁴ See *B.B.*, Docket No. 18-0732 (issued March 11, 2020).

²⁵ 5 U.S.C. § 8107.

²⁶ 20 C.F.R. § 10.404.

²⁷ *Id.* at § 10.404(a).

²⁸ See Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700, Exhibit 1 (January 2010); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.5a (March 2017).

²⁹ A.M.A., *Guides* 3, section 1.3, ICF: A Contemporary Model of Disablement.

functional history (GMFH), physical examination (GMPE), and clinical studies (GMCS).³⁰ The net adjustment formula is (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX).³¹

OWCP's procedures provide that, after obtaining all necessary medical evidence, the file should be routed through an OWCP medical adviser for an opinion concerning the nature and percentage of impairment in accordance with the A.M.A., *Guides*, with the medical adviser providing rationale for the percentage of impairment specified.³²

ANALYSIS -- ISSUE 3

The Board finds that this issue is not in posture for decision.

On May 3, 2019 appellant filed a claim for a schedule award. Dr. Kaufman indicated, in a May 29, 2019 note, that appellant had reached MMI. In a July 1, 2019 impairment report, she opined that appellant had combined 12 percent permanent impairment of the left lower extremity due to left hip and left knee impairments arising from a prior FECA claim, but with no additional permanent impairment of the left hip or left knee due to the current employment injury. Dr. Kaufman also opined, under the sixth edition of the A.M.A., *Guides*, that appellant had one percent permanent impairment of the left ankle. OWCP denied appellant's schedule award claim finding that the medical evidence did not establish additional permanent impairment.

In denying appellant's schedule award claim, OWCP failed to consider all the relevant medical evidence. Dr. Kaufman's July 1, 2019 impairment report specifically rated appellant's left ankle, however, OWCP did not make findings regarding appellant's entitlement to a schedule award for permanent impairment of her left ankle.

Because Board decisions are final with regard to the subject matter appealed,³³ it is crucial that OWCP address all relevant evidence received prior to the issuance of its final decision.³⁴ As OWCP did not review Dr. Kaufman's July 1, 2019 impairment report in its entirety, the Board finds that this issue is not in posture for decision.³⁵ On remand OWCP shall review all relevant evidence of record and, following any further development of the medical evidence deemed necessary, it shall issue a *de novo* decision on appellant's schedule award claim.³⁶

³⁰ *Id.* at 494-531; *see J.B.*, Docket No. 09-2191 (issued May 14, 2010).

³¹ *Id.* at 521.

³² *See S.J.*, Docket No. 17-0426 (issued July 13, 2018).

³³ 20 C.F.R. § 501.6(d).

³⁴ *See N.S.*, Docket No. 19-0622 (issued March 26, 2020); *B.C.*, Docket No. 15-1222 (issued October 20, 2015); *William A. Couch*, 41 ECAB 548, 553 (1990).

³⁵ *See N.S., id.; H.H.*, Docket No. 14-1985 (issued June 26, 2015).

³⁶ On remand of the case OWCP should consider administratively combining the current claim file with OWCP File No. xxxxxx993 to avoid the duplication of schedule award benefits for the same scheduled members or functions of the body.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish intermittent disability from work for the period from December 21, 2018 to January 18, 2019 causally related to her accepted September 20, 2018 employment injury. The Board further finds that OWCP met its burden of proof to terminate appellant's medical benefits effective August 8, 2019 as she no longer had any remaining residuals of her accepted employment conditions. However, the Board finds that the issue of whether appellant has met her burden of proof to establish more than 12 percent permanent impairment of her left lower extremity, for which she previously received a schedule award under a different claim, is not in posture for decision.

ORDER

IT IS HEREBY ORDERED THAT the August 14, July 31, and May 17, 2019 decisions of the Office of Workers' Compensation Programs are affirmed.

IT IS FURTHER ORDERED THAT the September 18, 2019 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: December 8, 2020
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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