United States Department of Labor
Employees' Compensation Appeals Board

C.J., Appellant	)	
and	)	**Docket No. 21-1389**
	)	**Issued: July 24, 2023**
U.S. POSTAL SERVICE, POST OFFICE, Hartford, CT, Employer	)	

Appearances:
Russell T. Uliase, Esq., for the appellant[1]
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. McGINLEY, Alternate Judge

JURISDICTION

On September 21, 2021 appellant, through counsel, filed a timely appeal from a June 22, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of this case.

[1] In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id*. An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id*.; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

[2] 5 U.S.C. § 8101 *et seq*.

ISSUE

The issue is whether appellant has met her burden of proof to establish greater than 12 percent permanent impairment of the right lower extremity, for which she previously received a schedule award.

FACTUAL HISTORY

On July 13, 2011 appellant, then a 52-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on that date she caught her foot on a carpet while descending stairs and injured her right ankle while in the performance of duty. She stopped work on that date. OWCP accepted the claim for right ankle bimalleolar displaced fracture.

On July 29, 2011 appellant underwent OWCP-approved open reduction internal fixation of the right lateral malleolus fracture. She received wage-loss compensation on the supplemental rolls beginning August 28, 2011 and on the periodic rolls beginning October 17, 2011. Appellant returned to full-time modified duty on January 25, 2012. She sustained a nonwork-related injury on March 21, 2013 and did not return to work. Appellant retired effective September 13, 2013.

On May 22 2014 appellant, through counsel, requested a schedule award and provided supporting medical evidence. In a December 21, 2013 report, Dr. Michael M. Cohen, a Board-certified orthopedic surgeon, summarized appellant's history of injury, medical treatment, additional conditions including a lumbar fusion L3-5 in 2007 and provided an impairment rating. He provided findings on physical examination including left leg radiculopathy and positive Brudzinski sign for nerve root irritation. Dr. Cohen described appellant's surgical scar, moderate chronic synovial swelling about the right ankle, and pounding pulses on the posterior tibial artery. He noted ankle range of motion (ROM) of three times of zero degrees of dorsiflexion, 45 degrees of plantar flexion, 30 degrees of eversion, 18 degrees of inversion, 3 degrees of calcaneal valgus. Dr. Cohen noted decrease in the right L4 sensory dermatome distribution in the right lower extremity and 4/5 weakness of the left hamstring. He applied the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*), sixth edition,[3] diagnosis-based impairment (DBI) estimate of right bimalleolar fracture with mild motion deficit, class of diagnosis (CDX) of 1, with default impairment of 10 percent, page 503, Table 16-2. Dr. Cohen utilized grade modifier functional history (GMFH) of 2, A.M.A., *Guides*, Table 16-6 page 516, grade modifier physical examination (GMPE) of 2, Table 16-7, page 517, found that grade modifier clinical studies (GMCS) was not applicable, and completed the net adjustment formula (GMFH - CDX) + (GMPE - CDX), page 521 of the A.M.A., *Guides*, resulting in a net adjustment of 2 or 13 percent permanent impairment of the right lower extremity in accordance with Table 16-2, 503.

Dr. Cohen determined that appellant had a mild sensory deficit of the right L4 nerve root of one percent as found on Table 2, of *The Guides Newsletter, Rating Spinal Nerve Extremity Impairment Using the Sixth Edition* (July/August 2009) (*The Guides Newsletter*). He again applied the net adjustment formula utilizing GMFH of 3, Table 17-6, page 575, and GMCS of 3, Table 17-9, page 581, to reach a net adjustment of 4 or 2 percent permanent impairment.

[3] A.M.A., *Guides*, 6th ed. (2009).

Dr. Cohen utilized the Combined Values Chart at page 604 of the A.M.A., *Guides*, and found 15 percent permanent impairment.

On June 24, 2014 appellant filed a claim for compensation (Form CA-7) for a schedule award.

On March 25, 2015 OWCP requested that Dr. Morley Slutsky, Board-certified in occupational medicine serving as OWCP's district medical adviser (DMA) reviewed the statement of accepted facts (SOAF) and Dr. Cohen's December 21, 2013 report.

In a March 26, 2015 report, Dr. Slutsky noted that he had reviewed the medical evidence and concluded that appellant had 12 percent permanent impairment of the right lower extremity due to bimalleolar fracture. He applied the net adjustment formula noting that the CDX was 1, the GMFH was 1, the GMPE was 2, and that, therefore, the net adjustment was 1, and the final impairment rating was 12 percent permanent impairment. Dr. Slutsky found that the date of maximum medical improvement (MMI) was December 21, 2013. He did not address any right lower extremity impairment due to previous spinal injury.

On April 13, 2015 OWCP requested that Dr. Cohen review the DMA's report and specify whether or not he agreed with the impairment rating. Dr. Cohen responded on May 18, 2015 and asserted that based on appellant's activities of daily living her GMFH should be 2 resulting in a net adjustment of 13 percent permanent impairment.

By decision dated July 2, 2015, OWCP granted appellant a schedule award for 12 percent permanent impairment of her right lower extremity. On July 8, 2015 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. The hearing took place on September 16, 2015.

By decision dated November 4, 2015, OWCP's hearing representative vacated OWCP's July 2, 2015 decision and remanded the case for consideration of Dr. Cohen's May 18, 2015 report by a DMA.

On June 22, 2016 OWCP requested that the DMA, Dr. Slutsky, review the medical evidence. In a July 2, 2016 report, the DMA noted that, as appellant did not have an antalgic gait or documentation of a positive Trendelenburg test, the correct GMFH was 1 in accordance with Table 16-6, page 516 of the A.M.A., *Guides*.

In a September 8, 2016 letter, OWCP requested that Dr. Cohen review the July 2, 2016 DMA report and provide the reasons for any disagreement. Counsel responded on November 15, 2016 and reported that Dr. Cohen's opinion was unchanged.

By decision dated February 8, 2017, OWCP granted appellant a schedule award for 12 percent permanent impairment of the right lower extremity. On February 16, 2017 appellant, through counsel, requested an oral hearing before an OWCP's hearing representative. The oral hearing took place on May 10, 2017.

By decision dated June 21, 2017, OWCP's hearing representative vacated the February 8, 2017 OWCP decision noting that Dr. Cohen had provided additional right lower extremity impairment due to L4 sensory nerve root deficit and remanded the case for review by a DMA.

In a July 14, 2017 SOAF, OWCP noted that appellant underwent unrelated lumbar fusion surgery in 2007 from L3-5 due to a preexisting lumbar spine condition. It referred the SOAF to the DMA for review and proper application of the A.M.A., *Guides*.

On July 27, 2017 the DMA, Dr. Slutsky, found that the accepted condition of bimalleolar fracture did not emanate from the spine. He further noted that there was reliable evidence of normal right lower extremity sensory and motor testing and, therefore, no basis for utilizing *The Guides Newsletter*.

On October 5, 2017 OWCP referred appellant for a second opinion evaluation with Dr. Robert Moskowitz, a Board-certified orthopedic surgeon.[4] In a December 11, 2017 report, Dr. Moskowitz reviewed the medical evidence and disagreed with Dr. Cohen's findings and conclusions regarding sensory impairment of the right lower extremity. He also noted that appellant reported a second low back surgery in 2016. Dr. Moskowitz further found that her subjective complaints were unreliable and could not be used in calculating her permanent impairment. He applied the DBI methodology of the A.M.A., *Guides* to the diagnosis of malleolar fracture with mild motion deficits and/or mild malalignment, which resulted in a Class 1 impairment with a default value of 10 percent. Dr. Moskowitz determined that appellant would not qualify for a GMFH as her functional history was unreliable and inconsistent and utilized zero. He found that GMPE was 2. Dr. Moskowitz applied the net adjustment formula finding that appellant's net adjustment was 0 and her impairment rating was 10 percent permanent impairment of the right lower extremity.

On January 16, 2018 OWCP requested that appellant provide her 2016 operative report. Appellant provided the November 29, 2016 report on February 5, 2018 and it indicated that she underwent left L2-3 complete fasciectomy, L2-3 discectomy, left L2-3 arthrodesis, and pedicle screw placement.

On May 3, 2018 OWCP referred appellant for an impartial medical examination with Dr. Balazs Somogyi, a Board-certified orthopedic surgeon serving as an impartial medical examiner (IME), to resolve a conflict of medical opinion evidence between Dr. Cohen, Dr. Slutsky, and Dr. Moskowitz regarding the extent of appellant's right lower extremity impairment for schedule award purposes.

In a June 21, 2018 report, Dr. Somogyi noted appellant's history of injury and current symptoms of difficulty climbing stairs and prolonged walking. He found that her gait was minimally antalgic. Dr. Somogyi found that appellant's motor, sensory, and deep tendon reflexes were normal. He determined that she had reached MMI and applied the A.M.A., *Guides*, Table 16-2, page 503 finding a Class 1 impairment with mild motion deficit, or 10 percent impairment of the right lower extremity. Dr. Somogyi noted that no medical records were available for review.

In a separate report dated July 14, 2018, Dr. Somogyi reviewed appellant's medical records. He again found that she had a Class 1 impairment with mild motion deficit. Dr. Somogyi

[4] Appellant did not appear for the initially scheduled appointment. OWCP rescheduled the second opinion examination on November 17, 2017.

determined GMFH was 1, with a mild problem, and that GMPE was 1 due to mild loss of ROM. He concluded that appellant had 10 percent permanent impairment of the right lower extremity.

On August 10, 2018 OWCP referred the medical evidence to the DMA for review of the schedule award. On August 13, 2018 Dr. Michael M. Katz, a Board-certified orthopedic surgeon serving as OWCP's DMA, reviewed Dr. Somogyi's findings and applications of the A.M.A., *Guides*. He requested a supplemental report including ROM measurements in keeping with the requirements of the A.M.A., *Guides*, to determine if appellant had mild motion impairment.

On August 21, 2018 OWCP requested a supplemental report from Dr. Somogyi addressing spinal nerve impairment and ROM figures. Dr. Somogyi submitted a supplemental report on August 27, 2018 and explained that right ankle ROM was determined with goniometer and that total ROM of the right ankle was 59 degrees, while the left ankle was 69 degrees. He found that impairment based on spinal nerves was inappropriate and had no role in connection with appellant's claim. Dr. Somogyi concluded that she had 10 percent impairment of the right lower extremity in accordance with Table 16-2, page 503 of the A.M.A., *Guides*.

On August 28, 2018 OWCP referred Dr. Somogyi's report to Dr. Katz, acting as the DMA. Dr. Katz reviewed the medical evidence on August 29 and September 4, 2018 and found that Dr. Somogyi had properly applied the A.M.A., *Guides*. The DMA determined that, as Dr. Somogyi had found normal neurological findings, this was consistent with the absence of spine nerve impairment.

By decision dated September 21, 2018, OWCP granted appellant a schedule award for 10 percent permanent impairment of the right lower extremity. On October 1, 2018 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

In a preliminary overpayment determination dated November 1, 2018, OWCP notified appellant that she had received an overpayment of compensation in the amount of $3,451.58 for the period December 21, 2013 through August 19, 2014 as her previously paid schedule award had been reduced. It advised that she was without fault in the creation of the overpayment. OWCP informed appellant of her review rights, *via* an overpayment action request form, and instructed her to complete an enclosed overpayment recovery questionnaire (Form OWCP-20) and submit supporting documentation. It advised that, under 20 C.F.R § 10.438, failure to submit the requested information within 30 days would result in a denial of waiver of recovery of the overpayment. On November 8, 2018 appellant, through counsel, requested a prerecoupment hearing before a representative of OWCP's Branch of Hearings and Review. The combined oral hearings took place on February 27, 2019.

OWCP received additional medical evidence. In a report dated February 15, 2019, Dr. Cohen disagreed with Dr. Somogyi's evaluation of ROM and his failure to use monofilament testing to determine sensory deficits.

By decision dated May 14, 2019, OWCP's hearing representative set aside the September 21 and November 1, 2018 OWCP decisions. He found that Dr. Moskowitz did not fully address the issue of lower extremity impairment due to spinal nerve injury and that OWCP failed to have a DMA review this report, such that the report did not create a conflict of medical

opinion evidence. OWCP's hearing representative found that Dr. Somogyi was, therefore, not an IME and his report was not entitled to special weight. He determined that an additional second opinion evaluation was required to determine appellant's permanent impairment for schedule award purposes.

On October 23, 2019 OWCP referred appellant for a second opinion examination with Dr. Lawrence Berson, a Board-certified orthopedic surgeon. Dr. Berson completed a report on November 26, 2019 describing her history of injury and medical treatment. He reported physical findings including moderate pes planus deformity and a painful and dysesthetic right ankle scar. Dr. Berson also found tenderness of the ankle over the lateral plate. He found full ROM of the right ankle, normal sensation and normal gait. Dr. Berson applied the DBI methodology of the A.M.A., *Guides*, Table 16-2, page 503 and found a Class 1 impairment for the diagnosis of bimalleolar ankle fracture with mild motion deficits. This resulted in a default rating of 10. He listed appellant's GMFH as 1, GMPE as 1, and GMCS as 1. Applying the net adjustment formula, Dr. Berson reached 10 percent permanent impairment of the right lower extremity.

On February 28, 2020 OWCP referred appellant for an additional second opinion examination with Dr. Berson. It requested that he address any impairment of the right lower extremity due to preexisting spinal nerve impairment. In a March 30, 2020 report, Dr. Berson diagnosed multiple sites of spinal spondylolysis, traumatic arthropathy of the right ankle and foot, and other acquired deformities of the right foot. He reported no spinal nerve impairment, only nerve dysesthesias from appellant's ankle surgery. Dr. Berson again found that she had 10 percent permanent impairment of the right ankle due to the DBI estimate of bimalleolar ankle fracture with mild motion deficits and/or mild malalignment. He also determined that appellant had an additional two percent permanent impairment due to a Class 1 grade B mild sensory deficit of the superficial peroneal peripheral nerve, Table 16-12, page 534 A.M.A., *Guides*. Dr. Berson concluded that she had 12 percent permanent impairment of her right lower extremity.

On May 5, 2020 OWCP referred Dr. Berson's reports to Dr. Katz, a Board-certified orthopedic surgeon, acting as a DMA to determine appellant's permanent impairment for schedule award purposes. In a May 13, 2020 report, Dr. Katz agreed with Dr. Berson's impairment ratings.

On May 21, 2020 OWCP referred the medical evidence of record to the DMA. In a May 28, 2020 report, the DMA again agreed with Dr. Berson's impairment rating and found that the ROM method was not allowed by the A.M.A., *Guides* for the accepted diagnosis of bimalleolar fracture in accordance with Table 16-2. He found that the date of MMI was March 30, 2020.

In a letter dated June 12, 2020, OWCP provided Dr. Cohen with Dr. Berson's reports and asked that he provide reasoning and calculations demonstrating his reasons for disagreement.

On July 1, 2020 Dr. Nicholas Diamond, an osteopathic physician Board-certified in pain management, reviewed the medical records and agreed that appellant had two percent permanent impairment due to sensory deficits of the right lower extremity. He also agreed that the appropriate DBI estimate was 10 percent, but disagreed with the grade modifiers finding GMFH of 2 based on pain levels and the inability to perform her date-of-injury position and GMPE of 2 due to pes planus of the right foot and synovial swelling. Dr. Diamond found that appellant had 15 percent permanent impairment of the right lower extremity.

On September 8, 2020 OWCP referred Dr. Diamond's report to the DMA. In a September 15, 2020 report, the DMA found that Dr. Diamond relied on Dr. Cohen's findings from December 21, 2013 and that more recent physical examinations did not support GMPE or GMFH of 2.

By decision dated December 16, 2020, OWCP found that appellant had 12 percent permanent impairment of the right lower extremity. On December 22, 2020 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. The oral hearing took place on April 13, 2021.

By decision dated June 22, 2021, OWCP's hearing representative found that appellant had not met her burden of proof to establish more than 12 percent permanent impairment of her right lower extremity for which she had previously received a schedule award.

LEGAL PRECEDENT

The schedule award provisions of FECA,[5] and its implementing federal regulations,[6] 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. FECA, however, does not specify the manner in which the percentage loss of a member shall be determined. The method used in making such a determination is a matter which rests in the discretion of OWCP. For consistent results and to ensure equal justice, the Board has authorized the use of a single set of tables so that there may be uniform standards applicable to all claimants.

OWCP evaluates the degree of permanent impairment according to the standards set forth in the specified edition of the A.M.A., *Guides*, published in 2009.[7] The Board has approved the use by OWCP of the A.M.A., *Guides* for the purpose of determining the percentage loss of use of a member of the body for schedule award purposes.[8]

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): A Contemporary Model of Disablement*.[9] Under the sixth edition, the evaluator identifies the impairment CDX, which is then adjusted by the GMFH, GMPE, and/or GMCS.[10] The net adjustment formula is (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX).[11] Evaluators

[5] *Supra* note 2.

[6] 20 C.F.R. § 10.404.

[7] For decisions issued after May 1, 2009, the sixth edition of the A.M.A., *Guides* is used. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.5a (March 2017); *see also id*., at Chapter 3.700, Exhibit 1 (January 2010).

[8] *P.R.*, Docket No. 19-0022 (issued April 9, 2018); *Isidoro Rivera*, 12 ECAB 348 (1961).

[9] A.M.A., *Guides* (6th ed. 2009), p.3, section 1.3.

[10] *Id*. at 494-531.

[11] *Id*. at 411.

are directed to provide reasons for their impairment choices, including the choices of diagnoses from regional grids and calculations of modifier scores.[12]

It is well established that in determining the amount of a schedule award for a member of the body that sustained an employment-related permanent impairment, preexisting impairments of the body are to be included.[13] Neither FECA nor its regulations provide for a schedule award for impairment to the back or to the body as a whole.[14] Furthermore, the back is specifically excluded from the definition of organ under FECA.[15] The sixth edition of the A.M.A., *Guides* does not provide a separate mechanism for rating spinal nerve injuries as impairments of the extremities. Recognizing that FECA allows ratings for extremities and precludes ratings for the spine, *The Guides Newsletter* offers an approach to rating spinal nerve impairments consistent with sixth edition methodology. For peripheral nerve impairments to the upper or lower extremities resulting from spinal injuries, OWCP's procedures indicate that *The Guides Newsletter* is to be applied.[16] The Board has recognized the adoption of this methodology for rating extremity impairment, including the use of *The Guides Newsletter*, as proper in order to provide a uniform standard applicable to each claimant for a schedule award for extremity impairment originating in the spine.[17]

OWCP's procedures provide that, after obtaining all necessary medical evidence, the file should be routed to a DMA for an opinion concerning the nature and percentage of impairment in accordance with the A.M.A., *Guides*, with the DMA providing rationale for the percentage of impairment specified.[18]

ANALYSIS

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

OWCP accepted that on July 13, 2011 appellant sustained a bimalleolar fracture of her right ankle. Appellant filed a claim for a schedule award and submitted a December 21, 2013 impairment rating from Dr. Cohen. Dr. Cohen reported a DBI estimate of 13 percent due to her accepted bimalleolar fracture and also asserted that she had a preexisting L4 nerve root lumbar spine injury, which resulted in an additional 2 percent permanent impairment of her right lower

[12] *R.R.*, Docket No. 17-1947 (issued December 19, 2018); *R.V.*, Docket No. 10-1827 (issued April 1, 2011).

[13] *T.W.*, Docket No. 16-1818 (issued December 28, 2017); *see B.M.*, Docket No. 09-2231 (issued May 14, 2010); *supra* note 7 at Chapter 3.700.3(a)(3) (January 2010); *Dale B. Larson*, 41 ECAB 481 (1990); *Beatrice L. High*, 57 ECAB 329 (2006) (OWCP's procedures provide that the impairment rating of a given scheduled member should include any preexisting permanent impairment of the same member or function).

[14] 5 U.S.C. § 8107(c); 20 C.F.R. § 10.404(a) and (b); *see A.H.*, Docket No. 19-1788 (issued March 17, 2020); *Jay K. Tomokiyo*, 51 ECAB 361, 367 (2000).

[15] *See* 5 U.S.C. § 8101(19); *see also G.S.*, Docket No. 18-0827 (issued May 1, 2019); *Francesco C. Veneziani*, 48 ECAB 572 (1997).

[16] *Supra* note 7 at Chapter 3.700 (January 2010). *The Guides Newsletter* is included as Exhibit 4.

[17] *L.S.*, Docket No. 20-1730 (issued August 26, 2020); *A.H.*, *supra* note 14.

[18] *See supra* note 7 at Chapter 2.808.6(f) (March 2017).

extremity. The record indicates that appellant underwent a lumbar fusion L3-5 in 2007, and that she underwent left L2-3 complete fasciectomy, L2-3 discectomy, left L2-3 arthrodesis, and pedicle screw placement on February 5, 2018 due to preexisting injuries.

Both aspects of appellant's claim require further development. In regard to her accepted right ankle fracture, there are no ROM measurements comporting with the standards of the A.M.A., *Guides*, page 544, which require three measurements and the utilization of the greater of these measurements to determine loss of ROM.[19] Table 16-21 and Table 16-22, page 549 provide for a total of five ankle motions and deformities. The extent of appellant's loss of ROM of the right ankle and whether there should be a GMPE adjustment in accordance with Table 16-7, page 517 of the A.M.A., *Guides* cannot be determined. Therefore, the Board finds this aspect of her claim is not in posture for decision. While the claimant has the responsibility to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence. It has the obligation to see that justice is done.[20] Accordingly, once OWCP undertakes to develop the medical evidence further, it has the responsibility to do so in a manner that will resolve the relevant issues in the case.[21] On remand, OWCP should request a supplemental report and examination from Dr. Berson or another second opinion specialist in the appropriate field of medicine addressing this aspect of appellant's claim for permanent impairment.

Regarding any right lower extremity permanent impairment as a result of appellant's preexisting lumbar injury, in reports dated May 13 and 28, 2020, the DMA agreed with the impairment rating in Dr. Berson's report. The DMA did not, however, address the specific underlying preexisting diagnosis or the appropriate methodology for rating spinal nerve impairments affecting the upper or lower extremities in accordance with the A.M.A., *Guides*.[22] Both Dr. Berson and the DMA failed to discuss the standards of *The Guides Newsletter*, the above-described methodology, which provides for a permanent impairment rating based on peripheral nerve impairments to the upper or lower extremities resulting from spinal injuries.[23] Also as noted above, OWCP shares responsibility in the development of the evidence and has an obligation to see that justice is done.[24] On remand, OWCP shall request clarification or a supplemental report from the DMA regarding whether appellant sustained permanent impairment of the right lower extremity as a result of her preexisting nonemployment-related lumbar injury, and resulting surgery in accordance with the standards of the A.M.A., *Guides* and *The Guides Newsletter*.[25]

[19] *See B.W.*, Docket No. 20-1579 (issued August 6, 2021).

[20] *Donald R. Gervasi*, 57 ECAB 281, 286 (2005); *William J. Cantrell*, 34 ECAB 1233, 1237 (1983).

[21] *T.C.*, Docket No. 17-1906 (issued January 10, 2018).

[22] *See C.T.*, Docket No. 20-0043 (issued April 30, 2021); *L.L.*, Docket No. 19-0214 (issued May 23, 2019); *see also G.S.*, Docket No. 13-1649 (issued December 24, 2013).

[23] *See supra* notes 15 and 16.

[24] *Supra* note 20.

[25] *Supra* note 8.

After this and other such development of the case record as OWCP deems necessary, it shall issue a *de novo* decision.[26]

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the June 22, 2021 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: July 24, 2023
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board

[26] *See Order Remanding Case*, *E.T.*, Docket No. 18-0262 (issued November 22, 2019).