

On March 22, 2016 appellant filed a claim for compensation (Form CA-7) for a schedule award.

By decision dated November 3, 2016, OWCP granted appellant a schedule award for 11 percent permanent impairment of the right upper extremity. It found zero percent permanent impairment of the left upper extremity.

On August 3, 2017 appellant filed a Form CA-7 for an additional schedule award.

By decision dated May 18, 2018, OWCP granted appellant a schedule award for an additional 13 percent permanent impairment of the right upper extremity, for a total 24 percent permanent impairment of the right upper extremity.

On March 13, 2019 appellant filed a Form CA-7 for an additional schedule award.²

By decision dated May 16, 2019, OWCP denied appellant's claim for an additional schedule award as the medical evidence of record did not establish a greater percentage of permanent impairment than that previously awarded.

On June 29, 2020 appellant filed a Form CA-7 for an additional schedule award.

By decision dated September 9, 2020, OWCP denied appellant's claim for an additional schedule award as the medical evidence of record did not establish a greater percentage of permanent impairment than previously awarded.

On October 15, 2020 appellant requested reconsideration. She indicated her disagreement with Dr. Mrochek's impairment rating.

By decision dated December 21, 2020, OWCP denied the request for reconsideration as appellant's request did not raise substantive legal questions nor include new, relevant evidence.

Thereafter, OWCP received June 9, 2021 magnetic resonance imaging (MRI) scans of the right shoulder and cervical spine.

In a September 15, 2021 report, Dr. Mrochek found zero percent permanent impairment of the bilateral upper extremities.

² In support of her claim, appellant submitted a March 5, 2019 impairment rating by Dr. Michael Mrochek, a Board-certified physiatrist, who utilized the diagnosis-based impairment (DBI) rating method of the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*), Table 15-5, page 401, and found 11 percent permanent impairment of the right upper extremity for acromioclavicular joint injury. Dr. Mrochek noted that she had no permanent impairment of the upper extremities due to cervical radiculopathy.

In a September 19, 2021 work capacity evaluation (Form OWCP-5c), Dr. Mrochek indicated that appellant had reached maximum medical improvement (MMI) and could perform full-duty work with no restrictions.³

On April 11, 2022 appellant requested reconsideration. She indicated her disagreement with Dr. Mrochek's impairment rating, and asserted that June 9, 2021 imaging studies demonstrated multiple changes in her condition.

On September 22, 2022 appellant again requested reconsideration. She asserted that symptoms in her neck and upper extremities and new findings on imaging studies warranted a schedule award.

By decision dated September 26, 2022, OWCP denied appellant's request for reconsideration, finding that it was untimely filed and failed to demonstrate clear evidence of error.

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

OWCP did not make findings regarding the evidence appellant submitted in support of the reconsideration request.⁴ It summarily denied appellant's request for reconsideration without complying with the review requirement of FECA and its implementing regulations.⁵ As noted, section 8124(a) of FECA provides that OWCP shall determine and make a finding of fact and make an award for or against payment of compensation.⁶ Its regulations at 20 C.F.R. § 10.126 provide that the decision of the Director of OWCP shall contain findings and facts and a statement of reasons.⁷ As well, OWCP's procedures provide that the reasoning behind OWCP's evaluation should be clear enough for the reader to understand the precise defect of the claim and the kind of evidence which would overcome it.⁸

³ On September 22, 2021 OWCP received appellant's unsigned, undated Form CA-7 claiming a schedule award.

⁴ See *Order Remanding Case, A.J.*, Docket No. 21-0944 (issued March 23, 2022); *Order Remanding Case, R.C.*, Docket No. 20-1671 (issued May 6, 2021); *Order Remanding Case, J.K.*, Docket No. 20-0556 (issued August 13, 2020); *Order Remanding Case, C.D.*, Docket No. 20-0450 (issued August 13, 2020); *Order Remanding Case, T.B.*, Docket No. 20-0426 (issued July 27, 2020).

⁵ See *M.G.*, Docket No. 21-0893 (issued December 27, 2021); *Order Remanding Case, W.D.*, Docket No. 20-0859 (issued November 20, 2020); *Order Remanding Case, C.G.*, Docket No. 20-0051 (issued June 29, 2020); *Order Remanding Case, T.P.*, Docket No. 19-1533 (issued April 30, 2020); see also 20 C.F.R. § 10.607(b).

⁶ 5 U.S.C. § 8124(a).

⁷ 20 C.F.R. § 10.126.

⁸ Federal (FECA) Procedure Manual Part 2 -- Claims, *Disallowances*, Chapter 2.1400.5 (February 2013) (all decisions should contain findings of fact sufficient to identify the benefit being denied and the reason for the disallowance).

In the September 26, 2022 decision, OWCP did not reference or consider the June 9, 2021 imaging studies, Dr. Mrochek's September 15, 2021 impairment rating, or his September 19, 2021 form report. It failed to analyze this evidence.

The Board will therefore set aside OWCP's September 26, 2022 decision and remand the case for findings of fact and a statement of reasons to be followed by an appropriate decision on appellant's reconsideration request, which describes the evidence submitted. Accordingly,

IT IS HEREBY ORDERED THAT the September 26, 2022 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this order of the Board.

Issued: June 15, 2023
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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