

**United States Department of Labor
Employees' Compensation Appeals Board**

F.S., Appellant)	
)	
and)	Docket No. 23-1014
)	Issued: April 10, 2024
U.S. POSTAL SERVICE, HIGHLAND HILLS)	
STATION, San Antonio, TX, Employer)	
)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge

JURISDICTION

On July 25, 2023 appellant filed a timely appeal from a July 7, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP).¹ Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of this case.

ISSUES

The issues are: (1) whether appellant has met her burden of proof to establish greater than five percent permanent impairment of her left lower extremity and/or one percent permanent impairment of her right upper extremity for which she previously received schedule award

¹ The Board notes that, following the July 7, 2023 decision, OWCP received additional evidence. The Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

² 5 U.S.C. § 8101 *et seq.*

compensation; and (2) whether OWCP properly determined appellant's pay rate for schedule award purposes.

FACTUAL HISTORY

On January 23, 2020 appellant, then a 39-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on January 2, 2020 she was bitten by a dog on her right hand and knocked her to the ground injuring her lower back while in the performance of duty. She stopped work on January 30, 2020 and returned to full duty on February 18, 2020. On February 19, 2020 OWCP accepted the claim for sprain of the right carpal joint, contusion of the left hip, and puncture wound without foreign body of the right hand due to a dog bite.

In an October 15, 2022 report, Dr. Rafath Quraishi, a physician specializing in pain medicine, diagnosed contusion of the left hip, left hip dog bite, right wrist dog bite, and right wrist sprain and found that appellant had reached maximum medical improvement (MMI) on September 26, 2022. He reviewed the medical records and performed a physical examination, noting that she had difficulty making a fist. Dr. Quraishi measured range of motion (ROM) of the right wrist, finding flexion of 60 degrees, extension of 55 degrees, radial deviation of 20 degrees, and ulnar deviation of 30 degrees.³ He further measured ROM of the right fingers. Dr. Quraishi found flexion of the metacarpophalangeal (MCP) joint of the right index finger of 80 degrees, extension of the MCP joint of -10 degrees, flexion of the proximal interphalangeal (PIP) joint of 100 degrees, extension of the PIP joint of 0 degrees, flexion of the distal interphalangeal (DIP) joint of 60 degrees, and extension of 0 degrees. For the right middle finger, he reported 90 degrees of flexion and -20 degrees of extension of the MCP joint; 100 degrees of flexion and 0 degrees of extension of the PIP joint, and 70 degrees of flexion and 0 degrees of extension of the DIP joint. For the right fourth finger, Dr. Quraishi found -20 degrees of extension and 90 degrees of flexion at the MCP joint; 100 degrees of flexion and 0 degrees of extension at the PIP joint; and 0 degrees of extension and 70 degrees of flexion at the DIP joint. He found that the fifth finger MCP joint demonstrated -20 degrees of extension and 70 degrees of flexion; the PIP joint demonstrated 0 degrees of extension and 90 degrees of flexion; and the DIP joint demonstrated 0 degrees of extension and 50 degrees of flexion. Using the diagnosis-based impairment (DBI) rating method, Dr. Quraishi identified the class of diagnosis (CDX) as C1 wrist sprain/strain according to Table 15-3, page 395 of the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*).⁴ He applied a grade modifier for functional history (GMFH) of one based on appellant's *QuickDASH* score, and a grade modifier for physical examination (GMPE) of one due to mild loss of motion and pain. Dr. Quraishi found that a grade modifier for clinical studies (GMCS) was not applicable as it was used in Class placement. He applied the net adjustment formula to find a decrease of one place from the default value of one percent, for a total impairment of the "right wrist" of one percent. Dr. Quraishi related that ROM revealed only mild deficits which were used in placing appellant in the correct CDX.

Dr. Quraishi utilized the DBI rating method regarding appellant's left lower extremity to find that, under Table 16-3, page 512, appellant had a Class 1 impairment, due to history of

³ The ROM measurements of the right wrist yielded no impairment pursuant to Table 15-32 on page 473.

⁴ A.M.A., *Guides* (6th ed.).

contusion which resulted in a default value of one percent. He provided ROM for the left hip finding flexion of 105 degrees, extension of 15 degrees, internal rotation of 25 degrees, external rotation of 30 degrees, adduction of 15 degrees, and abduction of 30 degrees. Dr. Quraishi assigned a GMFH of 0 for no gait derangement and a GMPE of 1 for severe pain and loss of ROM. He indicated that a GMCS was not applicable. Dr. Quraishi applied the net adjustment formula $(0-2) + (1-1) = -1$, which resulted in a final rating of one percent permanent impairment of the left lower extremity. He related that ROM was used to place her in the correct CDX.

On December 3, 2022 appellant filed a claim for compensation (Form CA-7) for a schedule award.

On December 8, 2022 OWCP referred appellant's case to Dr. Todd Fellars, a Board-certified orthopedic surgeon serving as an OWCP district medical adviser (DMA) and requested that he provide an opinion regarding Dr. Quraishi's permanent impairment ratings. In a January 6, 2023 report, Dr. Fellars provided an assessment of appellant's upper and lower extremity permanent impairment which was in accordance with that of Dr. Quraishi. He noted that she had no ratable ROM loss of the wrist, therefore the DBI was indicated. Dr. Fellars concluded that appellant had one percent permanent impairment of the right upper extremity and one percent permanent impairment of the left lower extremity.

On January 23 and April 5, 2023 OWCP requested that the employing establishment provide appellant's dates of continuation of pay, her date-of-injury pay rate, her correct annual pay as of the date of disability, and her current pay rate. The employing establishment responded on January 27 and April 14, 2023 and related that she received continuation of pay from January 3 through February 15, 2020, that her annual pay rate as of the date of injury and the first date of disability was \$40,439.00, and that her current pay rate was \$54,121.00.

In a February 6, 2023 report, Dr. Ranil Ninala, a physician specializing in physiatry, examined appellant for schedule award purposes and found that the ROM of her right hand was decreased. He provided ROM of the right wrist, finding flexion of 30 degrees, extension of 55 degrees, radial deviation of 22 degrees, and ulnar deviation of 20 degrees.⁵ Dr. Ninala further measured ROM of the right thumb and fingers. He found thumb PIP flexion of 40 degrees, PIP extension of 25 degrees, MCP flexion of 30 degrees, and MCP extension of 0 degrees. For the MCP joint of the right index finger, Dr. Ninala found 85 degrees of flexion, and 20 degrees extension, PIP joint flexion of 90 degrees and 0 degrees of extension, and DIP joint flexion of 60 degrees and 0 degrees of extension. For the right middle finger, he reported 95 degrees of flexion and 15 degrees of extension of the MCP joint; 105 degrees of flexion and 0 degrees of extension of the PIP joint, and 70 degrees of flexion and 0 degrees of extension of the DIP joint. For the right fourth finger, Dr. Ninala found 20 degrees of extension and 95 degrees of flexion at the MCP joint; 105 degrees of flexion and 0 degrees of extension at the PIP joint; and 0 degrees of extension and 50 degrees of flexion at the DIP joint. He found that the fifth finger MCP joint demonstrated 20 degrees of extension and 90 degrees of flexion; the PIP joint demonstrated 0 degrees of

⁵ The ROM measurements of the right wrist yielded three percent permanent impairment due to loss of flexion and two percent permanent impairment due to loss of ulnar deviation impairment pursuant to Table 15-32 on page 473.

extension and 80 degrees of flexion; and the DIP joint demonstrated 0 degrees of extension and 45 degrees of flexion. Dr. Ninala did not provide an impairment rating for the right upper extremity.

Dr. Ninala examined appellant's left lower extremity and related that she was unable to toe walk and had difficulty heel walking. He found that her gait was slower paced, antalgic, and that she used a cane. Dr. Ninala utilized the DBI rating method regarding appellant's left lower extremity to find that, under Table 16-3, page 512, appellant had a Class 1 impairment due to left hip strain with moderate motion deficits and/or significant weakness which resulted in a default value of five percent permanent impairment. He found that no adjustment was necessary *via* grade modifiers.

On March 20, 2023 OWCP referred appellant's case to Dr. Fellars and requested that he provide an opinion regarding Dr. Ninala's permanent impairment rating.

On March 21, 2023 appellant filed an additional Form CA-7 for a schedule award.

In his March 29, 2023 report, Dr. Fellars provided an assessment of appellant's lower extremity permanent impairment which was in accordance with that of Dr. Ninala. He concluded that appellant had five percent permanent impairment of the left lower extremity.

On May 10, 2023 OWCP requested a supplemental report from Dr. Fellars providing an opinion regarding the permanent impairment of both her accepted upper and lower extremity conditions.

In a May 31, 2023 report, Dr. Nathan Hammel, a Board-certified orthopedic surgeon serving as DMA, opined that application of the ROM methodology of the sixth edition of the A.M.A., *Guides* to the right wrist resulted in no impairment. He then provided a DBI estimate of appellant's upper and lower extremity permanent impairment which was in accordance with the greater of the findings of Dr. Ninala and Dr. Quraishi. Dr. Hammel found one percent permanent impairment of the right upper extremity for Class 1 wrist sprain according to Table 15-3 on page 395 and five percent permanent impairment of the left lower extremity due to Class 1 hip strain according to Table 16-4 on page 512.

In a schedule award memorandum dated July 7, 2023, OWCP utilized appellant's weekly date-of-injury pay rate on January 2, 2020 of \$777.67 based on annual salary of \$40,439.00. It determined that cost-of-living adjustments (COLA)/consumer price index (CPI) increases began with her date of prior disability on January 2, 2020. OWCP determined that appellant reached MMI on February 6, 2023.

By decision dated July 7, 2023, OWCP granted appellant a schedule award for five percent permanent impairment of the left lower extremity and one percent permanent impairment of the right upper extremity. The period of the award ran for 17.52 weeks for the period February 6 through May 17, 2023. OWCP utilized a weekly pay rate of \$777.67 which it multiplied by her basic compensation rate of 66 2/3 percent to reach \$566.75.⁶ It noted that COLA/CPI increases

⁶ The Board notes that the weekly pay rate of \$777.67 multiplied by 66 2/3 percent is \$518.45 not \$566.75.

began with her date of prior disability on January 2, 2020, and that a March 1, 2023 COLA increase resulted in a weekly compensation rate of \$602.50.

LEGAL PRECEDENT -- ISSUE 1

The schedule award provisions of FECA⁷ and its implementing federal regulations⁸ 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. Through its implementing regulations, OWCP has adopted the A.M.A., *Guides* as the appropriate standard for evaluating schedule losses.⁹ As of May 1, 2009, the sixth edition of the A.M.A., *Guides* is used to calculate schedule awards.¹⁰ 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.¹¹

In determining impairment for the lower extremities under the sixth edition of the A.M.A., *Guides*, an evaluator must establish the appropriate diagnosis for each part of the lower extremity to be rated.¹² After the CDX is determined (including identification of a default grade value), the net adjustment formula is applied using the GMFH, GMPE, and GMCS.¹³ The net adjustment formula is (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX).¹⁴

In addressing impairment for the upper extremities under the sixth edition of the A.M.A., *Guides*, an evaluator must establish the appropriate diagnosis for each part of the upper extremity to be rated.¹⁵ After the CDX is determined (including identification of a default grade value), the

⁷ 5 U.S.C. § 8107.

⁸ 20 C.F.R. § 10.404.

⁹ *Id.* See also *V.J.*, Docket No. 1789 (issued April 8, 2020); *Jacqueline S. Harris*, 54 ECAB 139 (2002); *Ronald R. Kraynak*, 53 ECAB 130 (2001).

¹⁰ 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).

¹¹ *M.D.*, Docket No. 20-0007 (issued May 13, 2020); *P.R.*, Docket No. 19-0022 (issued April 9, 2018); *Isidoro Rivera*, 12 ECAB 348 (1961).

¹² *N.B.*, Docket No. 22-1295 (issued May 25, 2023); *B.G.*, Docket No. 21-1052 (issued April 11, 2023); *S.L.*, Docket No. 22-0613 (issued April 4, 2023); *J.B.*, Docket No. 21-0141 (issued January 27, 2023); *M.D.*, Docket No. 16-0207 (issued June 3, 2016); *D.F.*, Docket No. 15-0664 (issued January 8, 2016).

¹³ A.M.A., *Guides* 493- 553; see *id.*

¹⁴ *Id.*

¹⁵ *A.H.*, Docket No. 23-0335 (issued July 28, 2023); *B.B.*, Docket No. 20-1187 (issued November 18, 2021); *M.D.*, *supra* note 11; *T.T.*, Docket No. 18-1622 (issued May 14, 2019).

net adjustment formula is applied using the GMFH, GMPE, and GMCS.¹⁶ The net adjustment formula is (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX).¹⁷

Regarding the application of ROM or DBI impairment methodologies in rating permanent impairment of the upper extremities, FECA Bulletin No. 17-06 provides:

“As the [A.M.A.,] *Guides* caution that, if it is clear to the evaluator evaluating loss of ROM that a restricted ROM has an organic basis, three independent measurements should be obtained and the greatest ROM should be used for the determination of impairment, the CE [claims examiner] should provide this information (via the updated instructions noted above) to the rating physician(s).”¹⁸

FECA Bulletin further advises:

“Upon initial review of a referral for upper extremity impairment evaluation, the DMA should identify: (1) the methodology used by the rating physician (*i.e.*, DBI or ROM); and (2) whether the applicable tables in Chapter 15 of the [A.M.A.,] *Guides* identify a diagnosis that can alternatively be rated by ROM. *If the [A.M.A.,] Guides allow for the use of both the DBI and ROM methods to calculate an impairment rating for the diagnosis in question, the method producing the higher rating should be used.*” (Emphasis in the original.)¹⁹

The Bulletin also advises:

“If the rating physician provided an assessment using the ROM method and the [A.M.A.,] *Guides* allow for use of ROM for the diagnosis in question, the DMA should independently calculate impairment using both the ROM and DBI methods and identify the higher rating for the CE.”²⁰

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.²¹

¹⁶ A.M.A., *Guides* 383-492; *see A.H.; B.B., id.; M.P.*, Docket No. 13-2087 (issued April 8, 2014).

¹⁷ *Id.*

¹⁸ FECA Bulletin No. 17-06 (issued May 8, 2017); *B.B., supra* note 15; *V.L.*, Docket No. 18-0760 (issued November 13, 2018).

¹⁹ *Id.*

²⁰ *Id.*

²¹ *See supra* note 10 at Chapter 2.808.6f (February 2013). *See also D.S.*, Docket No. 20-0670 (issued November 2, 2021); *P.W.*, Docket No. 19-1493 (issued August 12, 2020); *J.T.*, Docket No. 17-1465 (issued September 25, 2019); *C.K.*, Docket No. 09-2371 (issued August 18, 2010); *Frantz Ghassan*, 57 ECAB 349 (2006).

ANALYSIS -- ISSUE 1

With regard to permanent impairment of appellant's right upper extremity, the Board finds that this case is not in posture for decision.

The Board notes that Section 15.7 of the sixth edition of the A.M.A., *Guides* provides that ROM should be measured after a "warm up," in which the individual moves the joint through its maximum ROM at least three times. The ROM examination is then performed by recording the active measurements from three separate ROM efforts and all measurements should fall within 10 degrees of the means of these three measurements. The maximum observed measurement is used to determine the ROM impairment.²² These requirements for evaluating permanent impairment due to ROM deficits have not been met in this case as neither Dr. Quraishi nor Dr. Ninala provided the active measurements from three separate ROM efforts.²³

The case must, therefore, be remanded for further development of the medical evidence regarding the extent of appellant's right upper extremity impairment.²⁴ On remand OWCP shall request additional ROM testing for the right upper extremity from Dr. Quraishi and Dr. Ninala. If the data is obtained, it shall be evaluated and considered under the relevant standards of the A.M.A., *Guides* and FECA Bulletin No. 17-06, including referral to a DMA. If no such data is obtained, OWCP shall take appropriate action for further examination by a second opinion physician to obtain the necessary ROM measurements. Following this, and other such further development as deemed necessary, OWCP shall issue a *de novo* decision regarding appellant's right upper extremity schedule award claim.

With regard to the left lower extremity, the Board finds that appellant has not met her burden of proof to establish greater than five percent permanent impairment of her left lower extremity, for which she previously received a schedule award.

In a February 6, 2023 report, Dr. Ninala utilized the DBI rating method regarding appellant's left lower extremity to find that, under Table 16-3, page 512, appellant had a Class 1 impairment, due to left hip strain with moderate motion deficits and/or significant weakness which resulted in a default value of five percent permanent impairment.

In reports dated March 29 and May 31, 2023 respectively, Dr. Fellars and Dr. Hammel, the DMAs, provided an assessment of appellant's lower extremity permanent impairment which was in accordance with that of Dr. Ninala. They concluded that she had five percent permanent impairment of the left lower extremity.

The Board finds that Dr. Ninala, Dr. Fellars, and Dr. Hammel provide a well-rationalized opinion on appellant's lower extremity permanent impairment which were derived in accordance

²² A.M.A., *Guides* 464.

²³ See *L.G.*, Docket No. 22-0962 (issued May 19, 2023).

²⁴ *Id.*; see also *D.C.*, Docket No. 22-0961 (issued January 20, 2023).

with the standards of the sixth edition of the A.M.A., *Guides* and therefore are entitled to the weight of the evidence.²⁵

As there is no rationalized medical report providing a rating of permanent impairment greater than that provided by Dr. Ninala, Dr. Fellars, and Dr. Hammel the Board finds that appellant had not met her burden of proof to establish greater than five percent permanent impairment of her left lower extremity, for which she received a schedule award.²⁶

Appellant may request a schedule award or increased schedule award at any time based on evidence of a new exposure or medical evidence showing progression of an employment-related condition resulting in permanent impairment or increased permanent impairment.

LEGAL PRECEDENT -- ISSUE 2

Section 8107 of FECA provides that schedule award compensation for permanent impairment of a scheduled member shall be based on the employee's monthly pay.²⁷ Such compensation is to be based on the pay rate as determined under section 8101(4) which defines monthly pay as "[t]he monthly pay at the time of injury, or the monthly pay at the time disability begins, or the monthly pay at the time compensable disability recurs, if the recurrence begins more than six months after the injured employee resumes regular full-time employment with the United States, whichever is greater."²⁸

Section 8146(a) of FECA provides that compensation payable on account of disability or death which occurred more than one year before the effective date of a COLA increase (determined in accordance with the provisions of the section) shall be increased by the percent of the increase.²⁹ Legislative history shows that this phrase means compensation payable for an employment-related condition where the entitlement to such compensation occurred more than one year before the effective date of the increase.³⁰

In cases of disability, a beneficiary is eligible for COLAs under section 8146(a) where injury-related disability began more than one year prior to the date the COLA took effect. The employee's use of continuation of pay, as provided by section 8118, or of sick or annual leave

²⁵ See *Y.S.*, Docket No. 19-0218 (issued May 15, 2020); *R.D.*, Docket No. 17-0334 (issued June 19, 2018).

²⁶ *N.B.*, *supra* note 12; *M.G.*, Docket No. 19-0823 (issued September 17, 2019); *I.T.*, Docket No. 18-1049 (issued December 31, 2018).

²⁷ 5 U.S.C. § 8107(a).

²⁸ *Id.* at § 8101(4).

²⁹ 5 U.S.C. § 8146(a).

³⁰ See *S.K.*, Docket No. 20-0422 (issued December 2, 2020); *Franklin L. Armfield*, 29 ECAB 500 (1978) (claimant not eligible for a cost-of-living increase, as provided by section 8146(a), unless the date of his entitlement to compensation occurred more than a year before the effective date of the cost-of-living increase).

during any part of the period of disability does not affect the computation of the one-year period.³¹ The disability need not have been continuous for the whole year before the increase.³²

When an injury does not result in disability, but compensation is payable for permanent impairment, a beneficiary is eligible for COLAs under section 8146(a) of FECA where the award for such impairment began more than one year prior to the date the COLA took effect.³³ When there is prior injury-related disability, OWCP procedures indicate that the CPI start date for the schedule award is the effective date of the applicable pay rate.³⁴ When there is no prior injury-related disability, the CPI start date is the date of MMI.³⁵ The schedule award start date is also the date of MMI.³⁶

OWCP's procedures further provide, regarding CPI changes, that "[w]here the schedule awards represent the first payment for compensable disability, the claimant's entitlement to CPIs does not begin until one year after the award begins."³⁷ Its procedures additionally indicate that when a claimant has no disability for work before the date of MMI, "the one-year waiting period begins on the starting date of the award. This date represents the claimant's first entitlement to compensation, even though the effective date of the pay rate DOI is earlier."³⁸

The period covered by a schedule award typically commences on the date that the employee reaches MMI from the residuals of the employment injury. MMI means that the physical condition of the injured member of the body has stabilized and will not improve further.³⁹ The determination of the date of MMI is factual in nature and depends primarily on the medical evidence.⁴⁰ The date of MMI is usually considered to be the date of the evaluation accepted as definitive by OWCP.⁴¹

OWCP procedures provide that a schedule award "begin[s] on the date of MMI, unless circumstances show a later date should be used."⁴²

³¹ 20 C.F.R. § 10.420(a).

³² *Id.*

³³ *Id.* at § 10.420(b).

³⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Determining Pay Rates*, Chapter 2.900 Exhibit I (September 2011). *See also S.K.*, *supra* note 30; *D.G.*, Docket No. 16-1855 (issued August 28, 2017).

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Supra* note 34 at Chapter 2.808.7(h) (February 2013).

³⁸ *Id.* at Chapter 2.901.16(a)(5) (February 2013).

³⁹ *S.B.*, Docket No. 17-1665 (issued January 28, 2019); *Adela Hernandez-Piris*, 35 ECAB 839 (1984).

⁴⁰ *J.B.*, Docket No. 11-1469 (issued February 14, 2012); *Franklin L. Armfield*, *supra* note 30.

⁴¹ *Supra* note 34 at Chapter 3.700.3(a)(1)(c) (January 2010).

⁴² *Id.* at Chapter 2.808.7(b) (February 2013).

ANALYSIS -- ISSUE 2

The Board finds the case not in posture for a decision with regard to whether OWCP properly determined appellant's pay rate for schedule award purposes.

On appeal, appellant contends that her schedule award compensation was paid at an improper pay rate as OWCP did not include several pay increases.

In awarding compensation, OWCP properly relied on appellant's date-of-injury salary to calculate the weekly pay rate. Its procedures provide that the effective pay rate for schedule awards for traumatic claims is based on the date of injury, date disability began, or date of recurrence, whichever is greatest.⁴³ As appellant has not sustained a recurrence of disability and the other injuries she sustained were unrelated to the current claim, the Board finds that OWCP properly relied on the date of injury in this case.⁴⁴

The Board, however, is unable to determine whether OWCP properly applied COLA/CPI adjustments to appellant's pay rate. Because OWCP did not sufficiently explain how it calculated the amount of the award and did not make clear whether it properly adjusted appellant's pay rate to reflect applicable COLA/CPI increases, the Board will set aside OWCP's July 7, 2023 decision on the issue of pay rate and remand the case for clarification.⁴⁵ Following any further development as deemed necessary, OWCP shall issue a *de novo* decision regarding appellant's entitlement to schedule award compensation with a full explanation of how it calculated the amount of the award, including the application of CPI adjustments.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish greater than five percent permanent impairment of the left lower extremity, for which she previously received a schedule award. The Board also finds that the case is not in posture for decision regarding the permanent impairment of appellant's right upper extremity. The Board further finds that the case is not in posture for decision with regard to OWCP's calculation of her pay rate for schedule award purposes.

⁴³ *Id.*

⁴⁴ *Cf. R.M.*, Docket No. 15-0461 (issued March 22, 2016).

⁴⁵ *See B.H.*, Docket No. 16-0252 (issued October 7, 2016); *T.K.*, Docket No. 09-1857 (issued June 3, 2010).

ORDER

IT IS HEREBY ORDERED THAT the July 7, 2023 decision of the Office of Workers' Compensation Programs is affirmed in part and set aside in part. The case is remanded for further proceedings consistent with this decision of the Board.

Issued: April 10, 2024
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board