

denied appellant's reconsideration request finding that it was untimely and did not present clear evidence of error. It did not review Dr. Ellis' October 23, 2012 report.

The Board has held that where a claimant submits medical evidence regarding a permanent impairment at a date subsequent to a prior schedule award decision, he is entitled to a merit decision on the medical evidence.² In the present appeal, appellant submitted Dr. Ellis' October 23, 2012 report after OWCP's October 14, 2011 schedule award decision. Moreover, this report addressed the pertinent issue of this case, *i.e.*, whether appellant was entitled to additional schedule award compensation for leg impairment, as it contained an impairment rating that referenced the A.M.A., *Guides*. Although appellant submitted a form in which he requested reconsideration, it is evident that he was not seeking reconsideration of the October 14, 2011 decision, but was seeking a schedule award based on new medical evidence.

The case will be remanded for further development on the issue of whether appellant has more than six percent permanent impairment of his right leg or six percent permanent impairment of his left leg, for which he received a schedule award. Following this and such other development as deemed necessary, OWCP shall issue an appropriate merit decision on appellant's claim.

IT IS HEREBY ORDERED THAT the February 22, 2013 decision of the Office of Workers' Compensation Programs be set aside and the case is remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: September 19, 2013
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

² See *Linda T. Brown*, 51 ECAB 115 (1999); *Paul R. Reedy*, 45 ECAB 488 (1994); see also *B.K.*, 59 ECAB 228 (2007) (where it was evident that the claimant was seeking a schedule award based on new and current medical evidence, OWCP should have issued a merit decision on the schedule award claim rather than adjudicate an application for reconsideration).