United States Department of Labor
Employees' Compensation Appeals Board

R.W., Appellant	)	
and	)	**Docket No. 24-0746**
	)	**Issued: September 30, 2024**
U.S. POSTAL SERVICE, PHILADELPHIA PROCESSING & DISTRIBUTION CENTER, Philadelphia, PA, Employer	)	

Appearances:
Michael D. Overman, 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 July 8, 2024 appellant, through counsel, filed a timely appeal from a January 18, 2024 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 over the merits of this case.[3]

[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*.

[3] The Board notes that, following the January 18, 2024 decision, appellant submitted additional evidence to OWCP. However, the Board's *Rules of Procedures* 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.*

ISSUE

The issue is whether appellant has met her burden of proof to establish greater than four percent permanent impairment of the right upper extremity, and one percent permanent impairment of the left upper extremity, for which she previously received schedule award compensation.

FACTUAL HISTORY

This case has previously been before the Board.[4] The facts and circumstances as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On November 12, 2015 appellant, then a 58-year-old bulk mail technician, filed an occupational disease claim (Form CA-2) alleging that she developed bilateral carpal tunnel syndrome due to factors of her federal employment, including repetitive movement, and use of her hands and wrists casing and bundling mail. She noted that she first became aware of her condition on June 30, 2015, and realized its relationship to her federal employment on August 18, 2015. By decision dated August 9, 2016, OWCP accepted appellant's claim for upper extremity conditions, including bilateral lesions of the median nerves; bilateral strains of muscles, fascia, and tendons at the forearm level; and bilateral primary osteoarthritis of the first carpometacarpal (CMC) joint.[5]

On February 3, 2020 appellant filed a claim for compensation (Form CA-7) for a schedule award.

Appellant submitted a December 2, 2019 impairment evaluation report by Dr. Nicholas Diamond, an osteopath specializing in physiatry and pain management, who reviewed her medical records, and recounted her current complaints of bilateral hand pain and stiffness. Dr. Diamond noted that an electromyography (EMG) report of the upper extremities dated September 22, 2015 revealed right median nerve impairment at the wrist level, and left ulnar nerve impairment at the medial elbow level.[6] Examination of appellant's thumbs revealed no tenderness or swelling and full range of motion (ROM) testing. Dr. Diamond's sensory examination revealed decreased sensation, left greater than right, in the hands. He diagnosed, in part, bilateral wrist strain and sprain, bilateral CMC joint arthrosis, bilateral brachial plexitis, left cubital tunnel syndrome, right carpal tunnel syndrome, and bilateral hand flexor tenosynovitis.

Referencing the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*),[7] Dr. Diamond utilized the diagnosis-based impairment (DBI) rating method for appellant's entrapment neuropathy of the median nerve at each wrist and found that, under Table 15-23 (Entrapment/Compression Neuropathy Impairment), page 449, she had a grade modifier for functional history (GMFH) of 3, a grade

[4] Docket No. 22-1017 (issued December 30, 2022).

[5] Appellant retired from the Federal Government, effective November 1, 2019.

[6] The case record contains a copy of the September 22, 2015 EMG study, which revealed mild right median nerve impairment at the right wrist level, significant left ulnar nerve impairment at the left elbow, and bilateral nerve impairments at the brachial plexus levels.

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

modifier for physical examination (GMPE) of 3, and a grade modifier for clinical studies (GMCS) of 1. He added these grade modifiers, which totaled 7, and then divided this figure by 3, which resulted in 2.3 or a grade modifier of 2. Dr. Diamond calculated that appellant had five percent permanent impairment of the bilateral upper extremity. He also determined that, under Table 15-2 (Digit Regional Grid), page 392, the class of diagnosis (CDX) for bilateral first finger metacarpophalangeal (MCP) joint degenerative joint disease resulted in a Class 1 impairment with a default value of six. Dr. Diamond assigned a GMPE of 0. He indicated that a GMCS and GMFH were not applicable. After applying the net adjustment formula, (GMPE - CDX) = (0 - 1) = -1, he calculated that appellant had five percent permanent impairment of the bilateral digits, which translated to two percent permanent impairment of each upper extremity. Dr. Diamond calculated that she had a total of seven percent permanent impairment each for the upper extremities. He reported that appellant reached maximum medical improvement (MMI) on December 2, 2019.

On May 2, 2020 Dr. Morley Slutsky, a physician Board-certified in occupational medicine serving as an OWCP district medical adviser (DMA), reviewed a statement of accepted facts (SOAF) and the medical record, including Dr. Diamond's December 2, 2019 impairment evaluation report. Regarding appellant's left wrist, he utilized the DBI rating method and indicated that the most impairing diagnosis was "nonspecific pain." Dr. Slutsky reported that, under Table 15-3 (Wrist Regional Grid), she had one percent left upper extremity permanent impairment. He disagreed with Dr. Diamond's impairment rating, and asserted that electrodiagnostic testing did not allow for use of Table 15-23. Regarding appellant's right wrist, Dr. Slutsky referenced Table 15-23 (Entrapment/Compression Neuropathy Impairment), and assigned a GMFH of 1, a GMPE of 1, and a GMCS of 1, which resulted in an average of 1. He noted that her *Quick*DASH score was mild, which increased her rating to two percent permanent impairment of the right upper extremity. Dr. Slutsky also reported that, based on Dr. Diamond's wrist ROM measurements, appellant had no ratable permanent impairment utilizing the ROM rating method. Regarding her bilateral thumb arthritis, he explained that, because there were no objective clinical findings consistent with CMC arthrosis or any other medical conditions, there was no basis for a ratable impairment for her bilateral CMC joint arthritis. Dr. Slutsky noted a date of MMI of December 2, 2019.

By decision dated July 10, 2020, OWCP granted appellant a schedule award for two percent permanent impairment of the right upper extremity and one percent permanent impairment of the left upper extremity based on Dr. Slutsky's May 2, 2020 report. The award ran for 9.36 weeks from December 2, 2019 through February 5, 2020.

Appellant subsequently submitted a June 25, 2020 addendum report by Dr. Diamond who indicated that he had reviewed Dr. Slutsky's May 2, 2020 report. Dr. Diamond explained that he agreed with Dr. Slutsky that she did not exhibit entrapment neuropathy of the left median nerve at the wrist. Regarding permanent impairment for appellant's right wrist, he indicated that he disagreed with Dr. Slutsky's assignment of a GMFH of 1 and a GMPE of 1. Dr. Diamond further explained that he erroneously noted an impairment rating for appellant's first MCP joints instead of his first CMC joints.

On July 14, 2020 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

By decision dated August 14, 2020, OWCP's hearing representative found that a conflict in medical opinion existed between Dr. Diamond, appellant's treating physician, and Dr. Slutsky,

the DMA, regarding the extent of permanent impairment of her bilateral upper extremities. The hearing representative set aside the July 10, 2020 decision and remanded the case for referral to an impartial medical examiner (IME) to resolve the conflict in the medical opinion.

OWCP subsequently referred appellant, along with a SOAF and the medical record, to Dr. Andrew Collier, Jr., a Board-certified orthopedic surgeon, for an impartial medical examination to resolve the conflict in the medical opinion regarding permanent impairment for her upper extremities. In an October 14, 2020 report, Dr. Collier noted appellant's history of injury and reviewed the medical record. He indicated that EMG and nerve conduction velocity (NCV) studies on the left were normal, and were slightly delayed on the right. On examination of appellant's thumbs, Dr. Collier observed tenderness at the basal joint bilaterally at the CMC joint, with no thenar or hypothenar atrophy. Examination of appellant's bilateral wrists revealed mildly positive Tinel's test bilaterally. Sensory examination was negative bilaterally. Dr. Collier provided three ROM measurements, and noted normal ROM of both wrists. He reported that presently there were no objective findings of carpal tunnel syndrome on either hand. Dr. Collier noted that appellant had degenerative arthritis of the first CMC joints bilaterally.

Regarding appellant's left upper extremity, Dr. Collier utilized Table 15-3 (Wrist Regional Grid) and determined that, for the diagnosis of nonspecific wrist pain, she had one percent permanent impairment. Regarding her right upper extremity, he utilized Table 15-23 (Entrapment/Compression Neuropathy Impairment) and noted that she was grade 1 with a default value of two. Dr. Collier assigned a GMPE of 0, a GMFH of 1, and GMCS of 1, which resulted in an average of 0.66 or 1. He explained that this moved the default rating to the right, resulting in three percent permanent impairment. Regarding appellant's right thumb, Dr. Collier reported that ultrasound of her hand demonstrated that she had one percent permanent impairment for right CMC joint arthritis. He calculated that appellant had a total of four percent permanent impairment of the right upper extremity. Dr. Collier noted a date of MMI as of December 2, 2019.

In a December 8, 2020 addendum report, Dr. Collier explained that his impairment rating was based on the physical examination at the time of his examination on October 14, 2020. He agreed with Dr. Slutsky's impairment of one percent of the left upper extremity. Dr. Collier also clarified that his calculation of four percent permanent impairment of the right upper extremity was not in addition to the prior impairment rating.

By decision dated December 15, 2020, OWCP granted appellant a schedule award for an additional two percent permanent impairment of the right upper extremity for a total of four percent permanent impairment of the right upper extremity. The award ran for 6.24 weeks from October 14 through November 26, 2020.

On December 29, 2020 appellant, through counsel, requested a hearing before a representative of OWCP's Branch of Hearings and Review, which was held on April 5, 2021.

By decision dated May 26, 2021, OWCP's hearing representative vacated the December 15, 2020 OWCP decision, and remanded the case for OWCP to obtain a supplemental report from Dr. Collier. On remand, it instructed him to review Dr. Diamond's June 25, 2020 addendum report, and to properly apply the ROM rating methodology to determine the extent of appellant's bilateral upper extremity permanent impairment.

In a June 7, 2021 report, Dr. Collier indicated that ROM measurements of appellant's wrists were taken three times, and noted measurements of 75 degrees extension on the right and left, 65 degrees volar flexion on the right and left, 20 degrees radial deviation on the right and left, 35 degrees ulnar deviation on the right and left, 90 degrees pronation on the right and left, and 90 degrees supination on the right and left. He also clarified that he had reviewed Dr. Diamond's June 25, 2020 report, and reiterated that he disagreed with Dr. Diamond's impairment rating because appellant did not have any evidence of carpal tunnel syndrome. Dr. Collier reported that his original impairment rating remained unchanged.

By *de novo* decision dated July 19, 2021, OWCP denied an additional schedule award for appellant's bilateral upper extremities based on Dr. Collier's October 14, 2020, and June 7, 2021 reports.

On July 27, 2021 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review, which was held on November 8, 2021.

By decision dated January 12, 2022, OWCP's hearing representative affirmed the July 19, 2021 decision.

Appellant, through counsel, appealed to the Board. By decision dated December 30, 2022,[8] the Board set aside OWCP's January 12, 2022 decision, finding that Dr. Collier, serving as the IME, failed to provide an opinion that conformed with the A.M.A., *Guides* and, therefore, could not carry the special weight of the medical opinion evidence regarding the nature and extent of appellant's permanent impairment. The Board remanded the case to OWCP for further medical development as deemed necessary, to be followed by an appropriate *de novo* decision.

On remand, OWCP again determined that a conflict of medical opinion existed between Dr. Diamond, appellant's treating physician, and Dr. Slutsky, the DMA, regarding the extent of permanent impairment of her bilateral upper extremities. It noted that while appellant saw Dr. Collier for an impartial medical evaluation on October 14, 2020 and addendum reports dated December 8, 2020 and July 7, 2021 were also provided, his calculations were not correct, resulting in the case being remanded.

On March 24, 2023 OWCP referred appellant, along with the medical record, a SOAF, and a series of questions to Dr. Patrick McDaid, a Board-certified orthopedic surgeon, for an impartial medical evaluation to resolve the conflict in medical opinion evidence pertaining to appellant's permanent impairment rating of the upper extremities.

In his May 16, 2023 report, Dr. McDaid discussed appellant's medical history, noted examination findings, and reported that he concurred with Dr. Slutsky's impairment rating. He reported his examination findings, noting tenderness to palpation at the CMC joints bilaterally and pain with CMC grind test bilaterally. Dr. McDaid opined that there was no impairment for the thumb given the lack of clinical findings of any relatable diagnosis. He noted that appellant did not have x-rays or advanced imaging to confirm the diagnosis of bilateral osteoarthritis of the first CMC joints. Dr. McDaid asserted that the diagnosis was made *via* ultrasound, which was highly subjective and user dependent. He opined that there was no measurable loss of ROM, and

[8] *Supra* note 4.

therefore, the DBI rating method should be utilized to determine an impairment rating. Dr. McDaid concluded that appellant had reached MMI, and he concurred with Dr. Slutsky's May 2, 2020 impairment rating, maintaining that it was done in accordance with the A.M.A., *Guides*.

By decision dated July 20, 2023, OWCP denied appellant's claim for an increased schedule award.

On July 26, 2023 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. A hearing was held on November 3, 2023.

By decision dated January 18, 2024, OWCP's hearing representative affirmed the July 20, 2023 decision.

LEGAL PRECEDENT

The schedule award provisions of FECA,[9] and its implementing federal regulations,[10] 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.[11] 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.[12]

The sixth edition requires identifying the impairment class for CDX, which is then adjusted by grade modifiers based on GMFH, GMPE, and GMCS.[13] The net adjustment formula is (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX).[14]

The A.M.A., *Guides* also provides that the ROM impairment is to be used as a stand-alone rating for upper extremity impairments when other grids direct its use or when no other diagnosis-

[9] 5 U.S.C. § 8107.

[10] 20 C.F.R. § 10.404.

[11] For decisions issued after May 1, 2009 the sixth edition of the A.M.A., *Guides* is used. A.M.A., *Guides*, (6th ed. 2009); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.5a (March 2017); *see also id.* at Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2, Exhibit 1 (January 2010).

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

[13] A.M.A., *Guides* 494-531.

[14] *Id.* at 521.

based sections are applicable.[15] If ROM is used as a stand-alone approach, the total of motion impairment for all units of function must be calculated. All values for the joint are measured and added.[16] Adjustments for functional history may be made if the evaluator determines that the resulting impairment does not adequately reflect functional loss and functional reports are determined to be reliable.[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).
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> "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*."[18] (Emphasis in the original.)
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> The Bulletin further advises:
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> "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."[19]

Impairment due to carpal tunnel syndrome is evaluated under the scheme found in Table 15-23 (Entrapment/Compression Neuropathy Impairment) and accompanying relevant text.[20] In Table 15-23, grade modifier levels (ranging from 0 to 4) are described for the categories Test Findings, History, and Physical Findings. The grade modifier levels are averaged to arrive at the appropriate overall grade modifier level and to identify a default rating value. The default rating

[15] *Id.* at 461.

[16] *Id.* at 473.

[17] *Id.* at 474.

[18] FECA Bulletin No. 17-06 (issued May 8, 2017).

[19] *Id.*

[20] A.M.A., *Guides* 449, Table 15-23. *See also L.G.*, Docket No. 18-0065 (issued June 11, 2018).

value may be modified up or down by one percent based on functional scale, an assessment of impact on daily living activities.[21]

Section 8123(a) of FECA provides that, if there is disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician (known as a referee physician or IME) who shall make an examination.[22] This is called a referee examination and OWCP will select a physician who is qualified in the appropriate specialty and who has no prior connection with the case.[23] When a case is referred to an IME for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well-rationalized and based upon a proper factual background, must be given special weight.[24]

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 permanent impairment in accordance with the A.M.A., *Guides*, with the DMA providing rationale for the percentage of impairment specified.[25]

ANALYSIS

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

Preliminarily, the Board notes that it is unnecessary to consider the evidence appellant submitted prior to the issuance of OWCP's January 12, 2022 decision because the Board considered that evidence in its December 30, 2022 decision. Findings made in prior Board decisions are *res judicata* absent any further review by OWCP under section 8128 of FECA.[26]

In his May 16, 2023 report, Dr. McDaid, the IME, opined that no impairment was warranted for the bilateral osteoarthritis of the first CMC joint due to lack of clinical findings given that the diagnosis of the condition was made using ultrasound rather than x-ray testing. He further opined that ultrasound testing was highly subjective and unreliable in appellant's case. Dr. McDaid discussed appellant's examination findings, noting tenderness to palpation at the CMC joints bilaterally and pain with CMC grind test bilaterally, but opined that there was no loss of ROM, and that impairment should be determined using the DBI rating method. The Board finds, however, that Dr. McDaid's report is not well rationalized regarding the extent of appellant's permanent impairment due to her accepted bilateral upper extremity injuries, as he does not

[21] *Id.* at 448-49.

[22] 5 U.S.C. § 8123(a); *see R.C.*, Docket No. 18-0463 (issued February 7, 2020); *see also G.B.*, Docket No. 16-0996 (issued September 14, 2016).

[23] 20 C.F.R. § 10.321; *P.H.*, Docket No. 21-0233 (issued May 10, 2023); *R.C.*, 58 ECAB 238 (2006).

[24] *K.D.*, Docket No. 19-0281 (issued June 30, 2020); *J.W.*, Docket No. 19-1271 (issued February 14, 2020); *Darlene R. Kennedy*, 57 ECAB 414 (2006); *Gloria J. Godfrey*, 52 ECAB 486 (2001); *James P. Roberts*, 31 ECAB 1010 (1980).

[25] *See D.J.*, Docket No. 19-0352 (issued July 24, 2020).

[26] *J.D.*, Docket No. 21-0425 (issued January 24, 2022); *M.D.*, Docket No. 19-0510 (issued August 6, 2019); *Clinton E. Anthony, Jr.*, 49 ECAB 476, 479 (1998).

properly apply the standards of the A.M.A., *Guides*.[27] He also challenged OWCP's acceptance of bilateral primary osteoarthritis of the first CMC joint.[28]

Additionally, the Board notes that Dr. McDaid did not provide any calculations or medical rationale for his impairment rating and failed to make any specific reference to the A.M.A., *Guides*.[29] Dr. McDaid's May 16, 2023 IME report relied solely on Dr. Slutsky's May 2, 2020 impairment evaluation. He also failed to apply his own May 16, 2023 examination findings to calculate appellant's impairment of the bilateral upper extremities. Furthermore, Dr. McDaid's report failed to meet the requirements for evaluating permanent impairment due to ROM deficits, as he did not provide any measurements from his evaluation.[30] Accordingly, his opinion does not conform to the A.M.A., *Guides*, and is of diminished probative value regarding the degree of permanent impairment due to appellant's accepted upper extremity conditions.[31] Therefore, it is insufficient to carry the special weight of the medical opinion evidence regarding the nature and extent of appellant's permanent impairment.[32]

Proceedings under FECA are not adversarial in nature, and OWCP is not a disinterested arbiter. The claimant has the burden of proof to establish entitlement to compensation.[33] However, OWCP shares responsibility in the development of the evidence to see that justice is done.[34] Once it undertakes development of the record, it must do a complete job in procuring medical evidence that will resolve the relevant issues in the case.[35]

In a situation where OWCP secures an opinion from an IME for the purpose of resolving a conflict in the medical evidence and the opinion from such examiner requires clarification or elaboration, it has the responsibility to secure a supplemental report from the examiner for the purpose of correcting the defect in the original opinion.[36] However, when the original report of the IME is vague, speculative, or lacking in rationale, OWCP must submit the case record and a

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[27] *See N.A.*, Docket No. 19-0248 (issued May 17, 2019); *James Kennedy, Jr.*, 40 ECAB 620, 626 (1989).

[28] *See T.J.*, Docket No. 24-0705 (issued August 28, 2024).

[29] *See D.O.*, Docket No. 19-1729 (issued November 3, 2020); *F.B.*, Docket No. 18-0903 (issued December 7, 2018).

[30] Section 15.7 of the sixth edition of the A.M.A., *Guides* provides that ROM should be measured after a warmup, 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 mean of these three measurements. The maximum observed measurement is used to determine the ROM impairment. A.M.A., *Guides* 464; *see also C.H.*, Docket No. 20-0529 (issued June 16, 2021); *P.H.*, Docket No. 18-0987 (issued March 30, 2020).

[31] *See H.C.*, Docket No. 21-0761 (issued May 5, 2022).

[32] *See V.G.*, Docket No. 20-0455 (issued June 17, 2021).

[33] *See L.B.*, Docket No. 19-0432 (issued July 23, 2019); *William J. Cantrell*, 34 ECAB 1223 (1983).

[34] *Id.*; *see also C.F.*, Docket No. 21-0003 (issued January 21, 2022); *S.A.*, Docket No. 18-1024 (issued March 12, 2020).

[35] *Id.*

[36] *S.R.*, Docket No. 17-1118 (issued April 5, 2018); *Nancy Lackner (Jack D. Lackner)*, 40 ECAB 232, 238 (1988); *Harold Travis*, 30 ECAB 1071, 1078 (1979).

detailed SOAF to a new IME for the purpose of obtaining a rationalized medical opinion on the issue.[37]

The case shall be remanded to OWCP for referral of appellant to a new IME for the purpose of resolving the conflict in the medical opinion evidence on the issue of the present case.[38] Following this, and other such further development as deemed necessary, OWCP shall issue a *de novo* decision regarding appellant's schedule award claim.

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the January 18, 2024 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: September 30, 2024
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

[37] *See A.K.*, Docket No. 23-1135 (issued April 11, 2024); *M.C.*, Docket No. 22-1160 (issued May 9. 2023); *Nancy Keenan*, 56 ECAB 687 (2005); *Roger W. Griffith*, 51 ECAB 491 (2000); *Talmadge Miller*, 47 ECAB 673 (1996); *Harold Travis, id*.

[38] *D.D.*, Docket No. 24-0203 (issued May 2, 2024); *R.O.*, Docket No. 19-0885 (issued November 4, 2019); *Talmadge Miller*, 47 ECAB 673 (1996).