

File Number:
HR10-D-H

RECEIVED DEC 16 2010

U.S. DEPARTMENT OF LABOR

OFFICE OF WORKERS' COMP PROGRAMS
PO BOX 8300 DISTRICT 50
LONDON, KY 40742-8300
Phone: (202) 693-0045

DEC 13 2010

Date of Injury: 02/12/1996
Employee: SAMUEL E. RAMSEY

Dear Mr. :

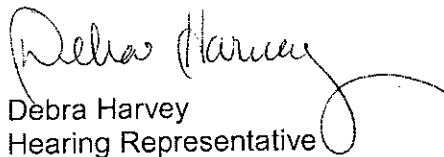
This is in reference to your workers' compensation claim. Pursuant to your request for a hearing, the case file was transferred to the Branch of Hearings and Review

A hearing was held on 10/18/2010. As a result of such hearing, it has been determined that the decision issued by the District Office should be vacated and the case remanded to the district office for further action as explained in the enclosed copy of the Hearing Representative's Decision.

Your case file has been returned to the Jacksonville District Office. You may contact that office by writing to our Central Mail Room at the following address:

US DEPARTMENT OF LABOR
OFFICE OF WORKERS' COMP PROGRAMS
PO BOX 8300 DISTRICT 6 JAC
LONDON, KY 40742-8300

Sincerely,


Debra Harvey
Hearing Representative

TENNESSEE VALLEY AUTHORITY
TRANS CONS - CHATTANOOGA
WORKERS' COMP DEPARTMENT
1101 MARKET STREET, BR 3D
CHATTANOOGA, TN 37402

PAUL H FELSER
ESQ
P O BOX 10267
SAVANNAH, GA 31412

On June 16, 2010, the Office issued a formal decision denying schedule award benefits in excess of 39% that had been previously paid. His attorney, Paul Felser, requested an oral hearing before an OWCP Hearing Representative

The hearing was held on October 18, 2010, in Jacksonville, Florida. The claimant did not appear at the hearing. Mr. Felser stated that he had not been contacted by the claimant but knew the claimant objected to the award. The record was left open for thirty days to allow for receipt of additional medical evidence for review and consideration.

A copy of the hearing transcript was sent to the Employing Agency on October 27, 2010, for review and comment. There was no response. In addition, no additional medical evidence was received for review.

Section 8107 of the Federal Employees' Compensation Act (FECA) provides that if there is a permanent disability involving the loss or loss of use of a member or function of the body, the claimant is entitled to a schedule award for the permanent impairment of the scheduled member or function. Section 8107 also sets for the number of weeks of compensation to be paid for permanent loss of use of the members of the body that are listed in the schedule. Neither the Act nor the regulations specify the manner in which the percentage of impairment for a schedule award shall be determined. The Board has held, however, that for consistent results and to ensure equal justice under the law to all claimants, good administrative practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants. The Office has adopted the American Medical Association's *Guide to the Evaluation of Permanent Impairment* as the standard for determining the extent of permanent impairment and the Board has concurred such adoption of these *Guides*.² Effective May 1, 2009, the Sixth Edition of the *Guides* became effective in calculating awards.³

I have carefully reviewed the evidence of record and find the Office's decision dated June 16, 2010, must be SET ASIDE and the case REMANDED for additional review by the DMA. In its referral memo to the DMA dated June 10, 2010, the Office advised the DMA that the claimant had been previously awarded schedule awards for a total 52% impairment and asked if the claimant had impairment in excess of 52%. The DMA based his opinion of no additional impairment on a prior award of 52%. However, elsewhere in the case file, the Office stated the claimant had previously been awarded benefits for an impairment of 39%. On REMAND, the Office should clarify the amount of impairment for which the claimant has been previously paid. If the claimant was not paid an award of 52% in the past, the DMA should be so advised and asked to recalculate

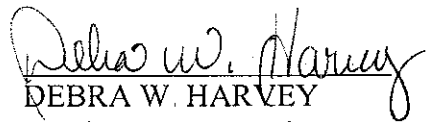
² A *George Lampo*, 45 ECAB 441 (1994).

³ FECA Bulletin 09-03, issued March 15, 2009.

the impairment based upon a prior rating of 39%. If the claimant was paid a total of 52% in the past, a new decision should be issued to correctly reflect this prior rating. The file is being returned to the Office for action as stated above.

DATED: DEC 13 2010

WASHINGTON, D C



DEBRA W. HARVEY

Hearing Representative

For

Director, Office of Workers'

Compensation Programs