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U.S. DEPARTMENT OF LABOR

OFFICE OF WORKERS' COMP PROGRAMS  
PO BOX 8300 DISTRICT 10 CHI  
LONDON, KY 40742-8300  
Phone: (312) 789-2800

May 31, 2019

Date of Injury:  
Employee: .

Dear

This concerns your compensation case and your request for reconsideration received on

We have evaluated the evidence submitted and have reviewed the merits of your case under 5 U.S.C. 8128. You have provided sufficient evidence to warrant modification of the decision dated . . . . . Based on the information received, the decision is now vacated.

The reasons for this decision are outlined in the enclosed Notice of Decision.

Sincerely,

Division of Federal Employees' Compensation

PAUL H FELSER  
7393 HODGSON MEMORIAL DR  
SUITE 102  
SAVANNAH, GA 31406

*If you have a disability and are in need of communication assistance (such as alternate formats or sign language interpretation), accommodation(s) and/or modification(s), please contact OWCP.*

File Number:  
Merit Review4-D-RECO

**NOTICE OF DECISION**

**Claimant Name:**  
**Case Number:**

**ISSUE:** The issue for determination is whether the evidence presented is of sufficient probative value to vacate the decision dated

**REQUIREMENTS FOR ENTITLEMENT:** In accordance with the regulations set forth in 20 CFR § 10.609, if an application for reconsideration is accompanied by new and relevant evidence or by an arguable case for error, OWCP will conduct a merit review of the case to determine whether the prior decision should be modified. If sufficient evidence exists to overturn the prior decision, it should be vacated.

**BACKGROUND:** You were employed as a \_\_\_\_\_ by \_\_\_\_\_  
Or \_\_\_\_\_ you sustained an injury as the result of exercising as a part of the fitness program. The claim was accepted for right biceps tendon rupture and sprain of right shoulder and upper arm.

You had right distal biceps tendon surgery on \_\_\_\_\_

On \_\_\_\_\_ a formal decision was issued in your case finding that you were paid a schedule award for 6% permanent partial impairment for your right upper extremity.

You disagreed with the \_\_\_\_\_ decision and requested reconsideration by letter/appeal request form received on \_\_\_\_\_

**DISCUSSION OF EVIDENCE:** The evidence reviewed in support of your reconsideration request includes a new permanent impairment rating from Dr. \_\_\_\_\_ dated \_\_\_\_\_, a second opinion examination from Dr. \_\_\_\_\_ dated \_\_\_\_\_ and the District Medical Advisor (DMA) report from Dr. \_\_\_\_\_ dated \_\_\_\_\_

The District Medical Advisor reviewed the medical evidence of file and used the diagnosis based impairment method to determine your permanent impairment rating. The DMA stated that Dr. \_\_\_\_\_ provided an incorrect calculation in his permanent impairment rating so the second opinion examination by Dr. \_\_\_\_\_ was used for the rating. The DMA opined that you had a 16% permanent partial impairment to your right upper extremity due to the work related condition on this claim. Since you were previously paid a schedule award for 6% permanent partial impairment on \_\_\_\_\_ 10% additional impairment was paid out to you on \_\_\_\_\_

**BASIS FOR DECISION:** The evidence is sufficient to vacate the decision dated \_\_\_\_\_ because the District Medical Advisor, Dr. \_\_\_\_\_ correctly used the Sixth Edition of the AMA Guides to the Evaluation of Permanent Impairment to determine a 16% total permanent partial impairment to your right upper extremity.

**CONCLUSION:** Therefore, the decision dated \_\_\_\_\_ is vacated. You have been paid a schedule award for a 10% additional permanent partial impairment to your right upper extremity (16% total impairment).

Division of Federal Employees' Compensation