

BEFORE THE KANSAS WORKERS COMPENSATION APPEALS BOARD

GUADALUPE GARCIA)	
Claimant)	
)	
V.)	CS-00-0053-632
)	AP-00-0451-895
TYSON FRESH MEATS, INC.)	
Self-Insured Respondent)	

ORDER ON REMAND

On January 28, 2022, the Kansas Court of Appeals affirmed in part and reversed in part the Appeals Board’s November 9, 2020 Order. This matter was remanded with directions for the Board to reevaluate Claimant’s impairment based on competent medical evidence.

The Court of Appeals noted:

This may require the examining physicians to revise their assessments of Garcia’s functional impairment to take into account additional information they believe would augment the Sixth Edition as competent medical evidence pertinent to her work injury. In the event that need arises, the evaluating physicians' starting point for Garcia's rating must be the Sixth Edition. If, in a physicians' expert medical opinion, the Guides provide too narrow a view of Garcia's ability to work and a similarly understated functional impairment, they may (and should) augment their evaluations using those tests, exams, reports, or resources they determine in their professional expertise will yield a more accurate result. That includes information and guidance that may be gleaned from the Fourth Edition or other sources they consider reliable or authoritative within their profession.¹

The Board’s review is limited to the evidence presented to the administrative law judge.² Therefore, pursuant to the decision issued by the Court of Appeals, this matter is remanded to the ALJ to afford the parties the opportunity to supplement the record with opinions from the examining physicians concerning Claimant’s impairment of function. The

¹ Garcia v. Tyson Fresh Meats, No. 123,430, ___ P.3d ___, 2022 WL 261927 at *8 (Published opinion filed January 28, 2022).

² See K.S.A. 44-555c(a).

ALJ is also instructed to issue an order on remand making findings of fact and conclusions of law regarding the nature and extent of Claimant's impairment.

IT IS SO ORDERED.

Dated this ____ day of March, 2022.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Stanley R. Ausemus, Attorney for Claimant
Gregory D. Worth, Attorney for Self-Insured Respondent
Hon. David J. Bogdan, Administrative Law Judge