

¹ 5 U.S.C. §§ 8101-8193.

accepted his claim for an open wound of the right ankle and paid appropriate compensation benefits. Appellant did not stop work.

Appellant was treated at a local emergency room on June 19, 2013 by Dr. Katherine L. Cassidy, Board-certified in emergency medicine, for a right foot laceration. He reported that he caught his right heel on a door at the employing establishment and lacerated his heel. Dr. Cassidy repaired the laceration. On June 26, 2013 appellant was treated by Dr. Larry D. Rowe, a Board-certified family practitioner, for a laceration of the right ankle with early infection. Appellant was also treated by Dr. Roland D. Stuckey, a Board-certified family practitioner, on June 21, 2013 for a laceration of the right ankle which occurred when he was cut by a swinging door. Dr. Stuckey diagnosed laceration of the right ankle with infection.

Appellant came under the treatment of Dr. Philip A. Rettenmaier, an osteopath, on July 16 and July 31, 2013 for the right ankle laceration. Dr. Rettenmaier returned appellant to work at light duty. In an August 14, 2013 report, he treated appellant for a right ankle wound which occurred on June 19, 2013. Dr. Rettenmaier noted a healing right posterior medial ankle wound with no muscular weakness, tingling or numbness or limitation of motion. He diagnosed open wound of the knee, leg and ankle with tendon involvement. In September 4, 2013 patient instructions, he returned appellant to regular-duty work with no restrictions and no dressings required. Dr. Rettenmaier noted that, while a scar from healing was to be expected, the right ankle wound was fully healed and without residual disability.

On September 26, 2013 appellant filed a claim for a schedule award.

On September 30, 2013 OWCP requested that appellant submit a detailed report from a treating physician which provided an impairment evaluation pursuant to the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*).² It requested an opinion as to whether appellant reached maximum medical improvement, a diagnosis upon which the impairment was based, and a detailed description of objective findings including decreases strength, atrophy, ankylosis, sensory changes and subjective complaints such as pain or discomfort and a detailed description of any permanent impairment under the applicable criteria and tables in the A.M.A., *Guides*. No additional information was submitted.

In a decision dated October 30, 2013, OWCP denied appellant's claim for a schedule award.

LEGAL PRECEDENT

The schedule award provision of FECA³ and its implementing regulations⁴ 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. However, FECA does not specify the manner in which the percentage of loss shall be determined. For consistent results

² A.M.A., *Guides* (6th ed. 2008).

³ 5 U.S.C. § 8107.

⁴ 20 C.F.R. § 10.404.

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 A.M.A., *Guides*,⁵ has been adopted by the implementing regulations as the appropriate standard for evaluating schedule losses.⁶

Not all medical conditions accepted by OWCP result in permanent impairment to a scheduled member.⁷ The Board notes that, before applying the A.M.A., *Guides*, OWCP must determine whether the claimed impairment of a scheduled member is causally related to the accepted work injury.⁸ The claimant has the burden of proving that the condition for which a schedule award is sought is causally related to his or her employment.⁹

ANALYSIS

Appellant claimed a schedule award for permanent impairment of the right ankle for the accepted condition of open wound sustained on June 19, 2013. To be entitled to a schedule award, he must establish that he is at maximum medical improvement and sustained a permanent impairment of a scheduled member of the body due to an employment injury.¹⁰ Appellant's condition was accepted for open wound of the right ankle. On September 30, 2013 OWCP requested that he submit a medical report from his treating physician addressing the degree of permanent impairment under the A.M.A., *Guides*.

The Board finds that appellant failed to submit sufficient medical evidence to establish that he is at maximum medical improvement or the extent of any permanent impairment. Appellant submitted an August 14, 2013 report from Dr. Rettenmaier who treated him for the right ankle wound which occurred on June 19, 2013. Dr. Rettenmaier noted that the right posterior medial ankle wound was healing nicely with no muscular weakness, tingling or numbness or no limitation of motion. He diagnosed open wound of the knee, leg and ankle with tendon involvement. Dr. Rettenmaier returned appellant to work regular duty with no restrictions. In patient instructions dated September 4, 2013, he noted the right ankle wound was fully healed without residual disability and returned appellant to work regular duty with no restrictions or dressings required.

In order to determine entitlement to a schedule award appellant's physician must provide a sufficiently detailed description of his condition so that the claims examiner and others reviewing the file will be able to clearly visualize the impairment with its resulting restrictions

⁵ *Supra* note 2.

⁶ *See supra* note 4.

⁷ *Thomas P. Lavin*, 57 ECAB 353 (2006).

⁸ *Michael S. Mina*, 57 ECAB 379, 385 (2006).

⁹ *Veronica Williams*, 56 ECAB 367 (2005) (a schedule award can be paid only for a condition related to an employment injury; the claimant has the burden of proving that the condition for which a schedule award is sought is causally related to his or her employment).

¹⁰ *Id.*

and limitations.¹¹ Dr. Rettenmaier did not provide an impairment rating, discuss whether the accepted condition caused permanent impairment or state an opinion as to whether appellant was at maximum medical improvement.¹² As he did not support that the accepted condition caused any permanent impairment, his reports are insufficient to establish that appellant has any permanent impairment due to the accepted condition. On September 30, 2013 OWCP requested that appellant provide a report from his treating physician with regard to his permanent impairment of the right ankle and right lower extremity condition in accordance with the A.M.A., *Guides*. He did not submit medical evidence to establish permanent impairment of his right leg or foot caused by his accepted injury. Without probative medical opinion evidence from a physician addressing how appellant's impairment correlated to the A.M.A., *Guides*, and explaining the causal relationship between these findings and his accepted employment injury, appellant has failed to establish his claim for a schedule award.¹³

On appeal appellant asserts that Dr. Rettenmaier's report provided a detailed outline of his permanent disabilities and complied with OWCP's request for information. As noted, Dr. Rettenmaier did not address maximum medical improvement or support that appellant had any permanent impairment due to his work injury. No medical evidence was received by OWCP, prior to its October 30, 2013 decision, supporting that appellant had ratable impairment of his right leg or foot causally related to his accepted injury.

Appellant may request a schedule award or increased schedule award based on evidence of a new exposure or medical evidence showing progression of an employment-related condition resulting in permanent impairment or increased impairment.

CONCLUSION

The Board finds that appellant failed to establish that he is entitled to a schedule award.

¹¹ *Renee M. Straubinger*, 51 ECAB 667, 669 (2000) (where the Board found in providing an estimate of the percentage loss of use of a member of the body listed in the schedule provisions, a description of a claimant's impairment must be obtained from his or her physician which is in sufficient detail so that the claims examiner and others reviewing the file will be able to clearly visualize the impairment and its resulting restrictions and limitations).

¹² A schedule award is not payable unless it is determined by probative medical evidence that the employee is at maximum medical improvement. *See D.R.*, 57 ECAB 720 (2006).

¹³ *Id.*; *see also Lela M. Shaw*, 51 ECAB 372 (2000) (where the Board found that a physician's opinion which did not define impairment in terms of the A.M.A., *Guides*, was insufficient to establish a permanent impairment due to the accepted employment injury).

ORDER

IT IS HEREBY ORDERED THAT the October 30, 2013 decision of the Office of Workers' Compensation Programs is affirmed

Issued: June 26, 2014
Washington, DC

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board