

<sup>2</sup> Appellant claimed that she was disabled from August 23 through November 30, 2006, however, the time period used by the Office in its August 14, 2006 decision will be the one used in this decision.

### **FACTUAL HISTORY**

On October 18, 2002 appellant, then a 32-year-old mail processing clerk, filed an occupational disease claim for Morton's neuroma.<sup>3</sup> On April 4, 2003 the Office accepted appellant's claim for lesions of plantar nerve and injury to dorsal aspect of the right foot. On May 22, 2006 the Office amended appellant's claim to include reflex sympathetic dystrophy of the right lower extremity.

On June 13, 2004 appellant requested a schedule award.

On August 9, 2006 the Office issued a schedule award for 38 percent permanent disability of the right lower extremity and granted payment for the period March 20, 2006 through April 24, 2008. The period of the award was 109.4 weeks.

On August 23, 2006 appellant filed a claim alleging that on August 21, 2006 she sustained a recurrence of disability causally related to her June 11, 2001 injury. She also claimed that she was totally disabled from work from August 23 through November 30, 2006. Appellant explained that the recurrence occurred as the pain in her foot and leg became unbearable. She stated that she had great pain and difficulty walking, standing or bearing weight on her lower right leg and foot.

The Office requested additional information. Additional medical information was submitted in support of appellant's recurrence claim. Appellant was on light duty during the claimed time period.

On December 18, 2006 the Office denied appellant's claim for recurrence of disability, finding that the evidence did not establish a change in the nature or extent of the limited duty.

On September 22, 2006 appellant requested a hearing. The hearing was held on June 4, 2007. After the hearing an additional medical report was submitted.

On August 14, 2007 the Office denied appellant's claim finding that she had failed to establish that she had a recurrence of disability during the time period August 21 to November 25, 2006 causally related to her June 11, 2001 traumatic injury or occupational disease.

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<sup>3</sup> Appellant has an accepted June 11, 2001 traumatic injury claim for acute contusion of the right foot which occurred when a gate fell onto her foot. (Claim # 09202085) The occupational disease claim is for an aggravation of this accepted condition. The two claims have been combined.

### **LEGAL PRECEDENT**

It is well established that a claimant is not entitled to dual workers' compensation benefits for the same injury.<sup>4</sup> A claimant may not receive compensation based on loss of wage-earning capacity and a schedule award covering the same period of time.<sup>5</sup>

### **ANALYSIS**

In this case, whether the Office properly found that appellant did not experience a recurrence of disability is immaterial. Even if appellant has established that she sustained a recurrence during the claimed time period she is precluded from receiving wage-loss compensation as she was receiving schedule award benefits for the same time period. Appellant cannot receive compensation for temporary total disability and schedule award benefits covering the same time period.<sup>6</sup>

On August 9, 2006 appellant was granted a schedule award for 38 percent permanent impairment to the right lower extremity with an award period of 109.4 weeks starting March 20, 2006 through April 24, 2008. During the period that appellant received schedule award benefits she was estopped from receiving wage-loss compensation. Therefore appellant's claim for a recurrence of disability during the period August 21 through November 25, 2006 is disallowed as she already received compensation for that time period through schedule award benefits. Appellant is not entitled to any additional compensation for the period March 20, 2006 through April 24, 2008. The Office properly denied the claim for a recurrence of disability.

### **CONCLUSION**

The Board finds that the Office properly denied appellant's claim for recurrence of disability as she had received compensation pursuant to the schedule award during this period and may not receive dual benefits.

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<sup>4</sup> *Dale Mackelprang*, 55 ECAB 174 (2003); *Orlando Vivens*, 42 ECAB 303 (1991); *David R. Broge*, 40 ECAB 1098 (1989); *Benjamin Swain*, 39 ECAB 448 (1988); *Robert T. Leonard*, 34 ECAB 1687 (1983).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 14, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 2, 2008  
Washington, DC

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

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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