

**United States Department of Labor  
Employees' Compensation Appeals Board**

---

**M.B., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Springfield, IL, Employer**

---

)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

**Docket No. 11-1114  
Issued: November 16, 2011**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

RICHARD J. DASCHBACH, Chief Judge  
COLLEEN DUFFY KIKO, Judge  
MICHAEL E. GROOM, Alternate Judge

**JURISDICTION**

On April 5, 2011 appellant filed a timely appeal from decisions of the Office of Workers' Compensation Programs (OWCP) dated November 1, 2010 and January 10, 2011. Pursuant to the Federal Employees' Compensation Act (FECA)<sup>1</sup> and 20 C.F.R. §§ 501.2(c) and 501.3(e), the Board has jurisdiction over the merits of this case.

**ISSUES**

The issues are: (1) whether appellant has sustained any permanent impairment causally related to his left middle finger; and (2) whether OWCP properly refused to reopen appellant's case for reconsideration of his claim under 5 U.S.C. § 8128(a).

---

<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

## **FACTUAL HISTORY**

Appellant, a 26-year-old mail handler/equipment operator, fractured his left middle finger on February 5, 2010 while trying to remove his left glove from a mail sorting machine. He filed a claim for benefits, which OWCP accepted for left middle mallet finger.

On July 19, 2010 appellant filed a Form CA-7 claim for a schedule award.

By letter dated July 27, 2010, OWCP asked appellant to provide a medical report and impairment evaluation from his attending physician pursuant to the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*) (6<sup>th</sup> ed.). Appellant did not submit any additional medical evidence.

By decision dated November 1, 2010, OWCP found that appellant had no ratable impairment causally related to an accepted condition and therefore was not entitled to a schedule award.

On November 12, 2010 appellant requested reconsideration of the November 1, 2010 schedule award decision. He did not submit any additional medical evidence.

By decision dated January 10, 2011, OWCP denied appellant's application for review on the grounds that it neither raised substantive legal questions nor included new and relevant evidence sufficient to require OWCP to review its prior decision.

## **LEGAL PRECEDENT -- ISSUE 1**

The schedule award provision of FECA<sup>2</sup> and its implementing regulations<sup>3</sup> 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 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* has been adopted by the implementing regulations as the appropriate standard for evaluating schedule losses.<sup>4</sup> 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.<sup>5</sup>

## **ANALYSIS -- ISSUE 1**

OWCP accepted the condition of left middle mallet finger. Appellant subsequently filed a claim for a schedule award. OWCP asked him to submit a medical report and an impairment

---

<sup>2</sup> 5 U.S.C. § 8107.

<sup>3</sup> 20 C.F.R. § 10.404. Effective May 1, 2009, OWCP began using the A.M.A., *Guides* (6<sup>th</sup> ed. 2009).

<sup>4</sup> *Id.*

<sup>5</sup> *Veronica Williams*, 56 ECAB 367, 370 (2005).

evaluation in accordance with the applicable protocols and tables of the A.M.A., *Guides* from his treating physician in support of his claim. However, appellant did not provide the medical evidence requested. He has submitted no medical evidence to establish that he has any permanent impairment causally related to his accepted left middle finger condition. The Board will affirm the November 1, 2010 decision.

### **LEGAL PRECEDENT -- ISSUE 2**

Under 20 C.F.R. § 10.606(b), a claimant may obtain review of the merits of his or her claim by showing that OWCP erroneously applied or interpreted a specific point of law; by advancing a relevant legal argument not considered by OWCP; or by submitting relevant and pertinent evidence not previously considered by OWCP.<sup>6</sup> Evidence that repeats or duplicates evidence already in the case record has no evidentiary value and does not constitute a basis for reopening a case.<sup>7</sup>

### **ANALYSIS -- ISSUE 2**

Appellant has not shown that OWCP erroneously applied or interpreted a specific point of law; he has not advanced a relevant legal argument not previously considered by OWCP; and he has not submitted relevant and pertinent evidence not previously considered by OWCP. Of note, he did not submit any medical evidence relevant to the issue of permanent impairment. His reconsideration request failed to show that OWCP erroneously applied or interpreted a point of law nor did it advance a point of law or fact not previously considered by OWCP. OWCP did not abuse its discretion in refusing to reopen appellant's claim for a review on the merits.

### **CONCLUSION**

The Board finds that appellant has not sustained any permanent impairment causally related to his accepted left middle finger condition. The Board finds that OWCP properly

---

<sup>6</sup> 20 C.F.R. § 10.606(b)(1); *see generally* 5 U.S.C. § 8128(a).

<sup>7</sup> *Howard A. Williams*, 45 ECAB 853 (1994).

refused to reopen appellant's case for reconsideration on the merits of his claim under 5 U.S.C. § 8128(a).<sup>8</sup>

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 10, 2011 and November 1, 2010 decisions of the Office of Workers' Compensation Programs be affirmed.

Issued: November 16, 2011  
Washington, DC

Richard J. Daschbach, Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

---

<sup>8</sup> The Board notes that appellant submitted additional evidence to the record following OWCP's January 10, 2011 decision. The Board's jurisdiction is limited to a review of evidence which was before OWCP at the time of its final review. 20 C.F.R. § 501(c). Appellant may resubmit this additional evidence, with a request for reconsideration, to OWCP.