

ankle strain and he returned to full duty. It subsequently accepted bilateral Achilles tendinitis and left calcaneal spur as work related. Appellant underwent excision of the retrocalcaneal exostosis and calcific Achilles tendinitis with repair of left Achilles tendon on December 1, 2008 which OWCP authorized.

On March 10, 2010 appellant filed a claim for a schedule award. In a May 25, 2010 letter, OWCP advised him of the medical evidence necessary for a schedule award. It forwarded a permanent impairment worksheet for the lower extremity under the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (hereinafter A.M.A., *Guides*).

In a July 30, 2010 report, Dr. Ike Gorman, an attending podiatrist, noted the history of injury and provided findings on examination which reflected residual symptoms in the left foot and left lower extremity. He found pain on the posterior aspect of the left heel with direct palpation with appellant unable to do single calf raise. Dorsalis pedis pulses, posterior tibial pulses and capillary fill time were equal on both sides. Inspection of posterior aspect of left heel showed normal appearing cicatrix, with normal touch, pin, vibratory and proprioception sensations with exception of decreased sensation limited to previous incisional site left heel. Dr. Gorman was unable to elicit deep tendon reflexes. Appellant had an antalgic gait and full muscle strength for all group tests. Examination demonstrated a full range of motion without muscle weakness, atrophy or neurologic deficit. Dr. Gorman diagnosed Achilles tendinitis, left side and found that appellant had reached maximum medical improvement.

Dr. Gorman completed a permanent impairment worksheet for the lower extremity on October 14, 2010. He found that, under the A.M.A., *Guides*, appellant had zero percent left lower extremity impairment. Dr. Gorman noted that there was no diagnosis-based impairment, peripheral nerve impairment, complex regional pain syndrome (CRPS) impairment, amputation or range of motion impairment.

In a November 28, 2010 report, OWCP's medical adviser reviewed the medical record. He stated that the accepted conditions of status post excision of retrocalcaneal exostosis and calcific Achilles tendinitis with repair of left Achilles tendon, December 1, 2008, were established and that maximum medical improvement was reached July 30, 2010, the date of Dr. Gorman's examination. The medical adviser agreed with Dr. Gorman that appellant had no left lower extremity impairment resulting from the accepted January 30, 2002 work injury.

By decision dated February 25, 2011, OWCP denied appellant's schedule award claim finding that he failed to establish that he had any left foot or leg impairment under the sixth edition of the A.M.A., *Guides*.

LEGAL PRECEDENT

The schedule award provision of FECA and its implementing regulations² 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. FECA, however, does not

² 20 C.F.R. § 10.404.

specify the manner in which the percentage of loss shall be determined. The method used in making such a determination is a matter that rests within the sound discretion of OWCP.³ 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.⁴ As of May 1, 2009, the sixth edition of the A.M.A., *Guides* is used to calculate schedule awards.⁵

In determining impairment for the lower extremities under the sixth edition of the A.M.A., *Guides*, an evaluator must establish the appropriate diagnosis for each part of the lower extremity to be rated. With respect to the lower extremity and foot, the relevant portion of the leg for the present case, reference is made to Table 16-2 (Foot and Ankle Regional Grid) beginning on page 501. Then the associated class is determined from the Foot and Ankle Regional Grid and the adjustment grid and grade modifiers (including functional history, physical examination and clinical studies) are used to determine what grade of associated impairment should be chosen within the class defined by the regional grid.⁶ Under Chapter 2.3, evaluators are directed to provide reasons for their impairment rating choices, including choices of diagnoses from regional grids and calculations of modifier scores.⁷

OWCP procedures provide that, after obtaining all necessary medical evidence, the file should be routed to OWCP's medical adviser for an opinion concerning the percentage of impairment using the A.M.A., *Guides*.⁸

ANALYSIS

OWCP accepted that appellant sustained a left ankle sprain, bilateral Achilles tendinitis and left calcaneal spur. It authorized excision of retrocalcaneal exostosis and calcific Achilles tendinitis with repair of left Achilles tendon, which he underwent on December 1, 2008. Appellant subsequently filed a claim for a schedule award. By decision dated February 25, 2011, OWCP denied the schedule award claim finding that he did not meet his burden of proof to establish permanent impairment to the left leg based on the accepted condition. OWCP relied on the opinions of Dr. Gorman, appellant's attending podiatrist and its medical adviser.

³ *Linda R. Sherman*, 56 ECAB 127 (2004); *Danniel C. Goings*, 37 ECAB 781 (1986).

⁴ *Ronald R. Kraynak*, 53 ECAB 130 (2001).

⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6.6a (January 2010); *see also* Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 and Exhibit 1 (January 2010).

⁶ *See* A.M.A., *Guides* page 499-501 (6th ed. 2009).

⁷ *Id.* at 23-28.

⁸ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6(d) (August 2002).

The Board finds that the opinions of Dr. Gorman and OWCP's medical adviser establish that appellant did not sustain any permanent impairment of his left leg. On July 30, 2010 Dr. Gorman provided a history of appellant's left foot condition and subsequent treatment. He noted that, upon physical examination of the left heel and left lower extremity, appellant showed some residual symptoms in the left foot and left lower extremity but the examination demonstrated a full range of motion without muscle weakness, atrophy or neurologic deficit. Dr. Gorman stated that on the lower extremity permanent impairment worksheet appellant had no left leg impairment as there was no diagnosed-based impairment, peripheral nerve impairment, CRPS impairment, amputation or range of motion impairment. OWCP's medical adviser reviewed the record and agreed that appellant had no impairment under Table 16-2, page 501 of the A.M.A., *Guides*. He noted that Dr. Gordon's findings on examination showed no impairment to the left leg and agreed with his assessment that appellant had no impairment under the standards of the sixth edition of the A.M.A., *Guides*.

On appeal, appellant argued that the decision is contrary to fact and law. The issue in the present case is medical in nature and must be resolved by probative medical evidence. The reports of Dr. Gordon and OWCP's medical adviser conform with the A.M.A., *Guides* and constitute the weight of the medical evidence.⁹ OWCP properly denied appellant's schedule award claim.

Appellant may request an 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 did not meet his burden of proof to establish entitlement to schedule award compensation.

⁹ See *Bobby L. Jackson*, 40 ECAB 593, 601 (1989).

ORDER

IT IS HEREBY ORDERED THAT the February 25, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 8, 2012
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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