

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

C.Q., Appellant)

and)

U.S. POSTAL SERVICE, POST OFFICE,)
Pomona, CA, Employer)

**Docket No. 13-1451
Issued: December 6, 2013**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Judge
PATRICIA HOWARD FITZGERALD, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On June 3, 2013 appellant filed a timely appeal from a May 15, 2013 schedule award of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant sustained permanent impairment to a scheduled member causally related to his accepted bilateral foot condition.

FACTUAL HISTORY

Appellant, a 52-year-old letter carrier, has an accepted claim for bilateral tendinitis of his feet causally related to factors of his employment. OWCP accepted the claim for bilateral foot strain.

¹ 5 U.S.C. § 8101 *et seq.*

In a January 30, 2013 report, Dr. Jin Xiaio, Board-certified in occupational medicine and a treating physician, related that appellant had complaints of continued pain in both feet caused by walking and carrying mail. On examination, she had a significant issue with flatfeet, bilaterally, but no swelling or tenderness over the ankles, heels and feet. Dr. Xiao stated that appellant's range of motion was within normal limits. Appellant had no ligamentous laxity, normal sensation, normal strength and normal gait.

On March 5, 2013 appellant filed a claim for a schedule award.

In a report dated April 30, 2013, Dr. Leonard A. Simpson, a specialist in orthopedic surgery and OWCP medical adviser, found that appellant had no ratable impairment pursuant to the American Medical Associations, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*) sixth edition, stemming from his accepted bilateral foot condition. He reviewed Dr. Xiao's January 30, 2013 report, which listed a normal range of motion, no ligament laxity, normal muscle strength and normal sensation. Dr. Simpson found that under Table 16-2, page 501 of the A.M.A., *Guides*, Foot and Ankle Regional Grid, a medically based impairment of strain with no significant objective abnormal findings of the muscles or tendons yielded a class zero impairment to either lower extremity.²

By decision dated May 15, 2013, OWCP denied appellant's claim for a schedule award. It found that the medical evidence did not establish any permanent impairment to a scheduled member of his body.

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 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.⁵ 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.⁶

² A.M.A., *Guides* 501.

³ 5 U.S.C. § 8107.

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

⁵ *Id.*

⁶ *Veronica Williams*, 56 ECAB 367, 370 (2005).

ANALYSIS

OWCP accepted appellant's claim for bilateral foot sprain.⁷ Appellant did not provide sufficient medical evidence sufficient to establish that he sustained permanent impairment to either lower extremity caused by his accepted bilateral foot strain. Dr. Simpson, an OWCP medical adviser, reviewed the January 30, 2013 report from Dr. Xiao, appellant's attending physician. The physical examination revealed normal findings in appellant's feet.⁸ Dr. Simpson found that he had a zero percent impairment of either lower extremity under Table 16-2, the table utilized for rating foot impairments under the A.M.A., *Guides*.

The Board finds that Dr. Simpson properly relied on the guidelines set forth at Table 16-2 of the A.M.A., *Guides* to find that appellant had no ratable impairment of the lower extremities. Based on his report, OWCP properly determined that she did not sustain any permanent impairment causally related to his accepted bilateral foot condition. Appellant has not submitted any other medical evidence to establish impairment to his lower extremities, the Board will affirm OWCP's May 15, 2013 decision.

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 has not sustained any permanent impairment to a scheduled member of his body causally related to his accepted lumbar condition, thereby entitling him to a schedule award under 5 U.S.C. § 8107.

⁷ C.H., Docket No. 08-2246 (issued May 15, 2009).

⁸ The Board notes that a description of appellant's impairment must be obtained from his physician, which must be in sufficient detail so that the claims examiner and others reviewing the file will be able to clearly visualize the impairment with its resulting restrictions and limitations. See *Peter C. Belkind*, 56 ECAB 580, 585 (2005).

ORDER

IT IS HEREBY ORDERED THAT the May 15, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 6, 2013
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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