

ISSUES

The issues are: (1) whether appellant is entitled to a schedule award for permanent impairment of the right and left upper extremities; and (2) whether OWCP properly declined appellant's reimbursement of travel expenses to obtain medical treatment.

FACTUAL HISTORY

This case has previously been before the Board. By decision dated May 12, 2014, the Board remanded a July 3, 2013 OWCP merit decision, which denied appellant's claim for reimbursement of travel expenses for medical treatment during the dates of July 8 and 9, 2013.³ The findings of fact and conclusions of law from the prior decision and order are hereby incorporated by reference.

On July 11, 2011 appellant, then a 51-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that she developed bilateral carpal tunnel syndrome (CTS) and osteoarthritis in her wrists and fingers as a result of her federal employment duties. OWCP accepted the claim for bilateral hand osteoarthritis and bilateral trigger finger.

In September 2011, appellant began treatment with Dr. Anderson, who performed various surgical procedures pertaining to her accepted employment-related conditions which were approved by OWCP. She continued seeking treatment with him over the course of her treatment.

On February 12, 2014 appellant filed a claim for a schedule award (Form CA-7).

By letter dated February 14, 2014, OWCP requested that appellant submit a report from her attending physician addressing her work-related conditions, the date of maximum medical improvement (MMI), objective findings, subjective complaints, and an impairment rating rendered according to the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*) (6th ed. 2009). It informed her that it was her responsibility to find a qualified physician who would perform the required examination if her treating physician declined to do so.

Appellant submitted reports dated July 9 to December 2, 2013 from Dr. Anderson recommending various surgical procedures.

The only current medical evidence received was Dr. Anderson's February 3, 2014 report, which noted that appellant was doing well postoperatively and could return to normal active duty despite mild complaints of pain. Dr. Anderson diagnosed successful bilateral thumb interphalangeal joint arthrodesis, successful bilateral carpometacarpal (CMC) arthroplasty, and successful left hand index finger A1 pulley release. He concluded that appellant required an independent medical examination and a disability rating to close her workers' compensation claim.

By decision dated March 25, 2014, OWCP denied appellant's claim for a schedule award finding that the medical evidence failed to demonstrate a measurable impairment of bilateral trigger finger and bilateral osteoarthritis of the hands.

³ Docket No. 14-150 (issued May 12, 2014).

LEGAL PRECEDENT -- ISSUE 1

The schedule award provision of FECA and its implementing regulations 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.⁴ 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* (6th ed. 2009) has been adopted by the implementing regulations as the appropriate standard for evaluating schedule losses.⁵

It is the claimant's burden to establish that he or she has sustained a permanent impairment of the scheduled member or function as a result of any employment injury.⁶ OWCP procedures provide that, to support a schedule award, the file must contain competent medical evidence which shows that the impairment has reached a permanent and fixed state and indicates the date on which this occurred (date of MMI), describes the impairment in sufficient detail so that it can be visualized on review and computes the percentage of impairment in accordance with the A.M.A., *Guides*.⁷

The sixth edition requires identifying the impairment class for the Class of Diagnosis (CDX), which is then adjusted by grade modifiers based on Functional History (GMFH), Physical Examination (GMPE), and Clinical Studies (GMCS).⁸ The Net Adjustment Formula is GMFH - CDX + GMPE - CDX + GMCS - CDX.

ANALYSIS -- ISSUE 1

OWCP accepted appellant's claim for bilateral hand osteoarthritis and bilateral trigger finger. On February 12, 2014 appellant filed a claim for a schedule award. By decision dated March 25, 2014, OWCP denied her schedule award claim finding that she had not submitted an impairment evaluation to establish that she sustained a permanent impairment resulting from her work injury.

The Board concludes that appellant has not submitted sufficient evidence to establish that, as a result of her employment injury, she sustained any permanent impairment to a scheduled member such that she would be entitled to a schedule award. By letter dated February 14, 2014, OWCP informed her of the type of evidence necessary to establish her schedule award claim and specifically requested that she submit an impairment evaluation from her attending physician in accordance with the sixth edition of the A.M.A., *Guides*. Appellant submitted a February 3, 2014 report from Dr. Anderson who noted that she was doing well postoperatively and could return to normal active duty despite mild complaints of pain.

⁴ 5 U.S.C. § 8107; 20 C.F.R. § 10.404.

⁵ *K.H.*, Docket No. 09-341 (issued December 30, 2011). For decisions issued after May 1, 2009, the sixth edition will be applied. *B.M.*, Docket No. 09-2231 (issued May 14, 2010).

⁶ *Tammy L. Meehan*, 53 ECAB 229 (2001).

⁷ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.5 (February 2013).

⁸ A.M.A., *Guides* 494-531.

Dr. Anderson diagnosed successful bilateral thumb interphalangeal joint arthrodesis, successful bilateral CMC arthroplasty, and successful left hand index finger A1 pulley release. He concluded that appellant required an independent medical examination and a disability rating to close her workers' compensation claim.

The Board finds that Dr. Anderson's report is insufficient to establish that appellant is entitled to a schedule award. OWCP procedures provide that MMI must be reached before a schedule award can be made.⁹ Dr. Anderson failed to state that MMI had been reached and provided no impairment rating for the upper extremities.¹⁰ Thus, his report is insufficient to establish that appellant reached MMI and sustained a permanent impairment of her bilateral trigger finger or bilateral hand osteoarthritis.

The Board notes that it is appellant's burden of proof to establish that she sustained a permanent impairment of a scheduled member as a result of an employment injury.¹¹ The medical evidence must include a description of any physical impairment in sufficient detail so that the claims examiner and others reviewing the file would be able to clearly visualize the impairment with its resulting restrictions and limitations.¹² Appellant did not submit such evidence and thus, OWCP properly denied her schedule award claim.¹³

On appeal, appellant argues that she was not provided enough time to obtain the required medical evidence. The Board finds this argument without merit as she was provided more than 30 days from the date of the February 14, 2014 development letter to the March 25, 2014 decision denying her claim for a schedule award.

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 met her burden of proof to establish entitlement to a schedule award for permanent impairment.

⁹ FECA Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.3(a)(1) (January 2010).

¹⁰ *E.D.*, Docket No. 10-967 (issued January 7, 2011).

¹¹ *Supra* note 6.

¹² *See A.L.*, Docket No. 08-1730 (issued March 16, 2009).

¹³ *L.F.*, Docket No. 10-343 (issued November 29, 2010); *V.W.*, Docket No. 09-2026 (issued February 16, 2010).

ORDER

IT IS HEREBY ORDERED THAT the March 25, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 28, 2015
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

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