

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ANN L. TAGUE and U.S. POSTAL SERVICE,
POST OFFICE, Davenport, Iowa

*Docket No. 96-1419; Submitted on the Record;
Issued April 6, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether appellant has established a permanent impairment entitling her to a schedule award under 5 U.S.C. § 8107.

In the present case, appellant filed a claim alleging that her skin cancer was causally related to exposure to the sun during the performance of her federal duties. Appellant indicated on the claim form that the affected area was just below the collarbone. The Office of Workers' Compensation Programs accepted the claim for squamous cell carcinoma-thorax. Appellant underwent surgery on September 20, 1994 and returned to work on October 4, 1994.

By decision dated June 23, 1995, the Office determined that appellant was not entitled to a schedule award under 5 U.S.C. § 8107. In a decision dated February 1, 1996, an Office hearing representative affirmed the prior decision.

The Board has reviewed the record and finds that appellant has not established entitlement to a schedule award under 5 U.S.C. § 8107.

Section 8107 of the Federal Employees' Compensation Act provides that, if there is permanent disability involving the loss, or loss of use, of a member or function of the body, the claimant is entitled to a schedule award for the permanent impairment of the scheduled member or function.¹ Neither the Act nor the regulations specify the manner in which the percentage of impairment for a schedule award shall be determined. For consistent results and to ensure equal

¹ 5 U.S.C. § 8107. This section enumerates specific members or functions of the body for which a schedule award is payable and the maximum number of weeks of compensation to be paid; additional members of the body are found at 20 C.F.R. § 10.304(b).

justice for all claimants, the Office has adopted the American Medical Association, *Guides to the Evaluation of Permanent Impairment* as the uniform standard applicable to all claimants.²

As noted above, the schedule award provisions under the Act are limited to specific members or functions of the body enumerated under 5 U.S.C. § 8107 and its implementing regulations. A schedule award is not payable for loss, or loss of use, of any member of the body not specifically enumerated,³ nor is it payable for the body as a whole.⁴ The skin is not listed as a member or function of the body under section 8107 or 20 C.F.R. § 10.304. Therefore a permanent impairment for loss, or loss of use, of the skin is not covered under the schedule award provisions of the Act. Appellant has submitted a report dated June 19, 1995 from dermatologists Dr. Duane C. Whitaker and Dr. Terri L. Poor, stating that under the A.M.A., *Guides* appellant had a Class I impairment for skin disease. While the A.M.A., *Guides* do provide a table for evaluation of skin disorders based on the impact on daily activities,⁵ this is not applicable in this case since the skin is not a specified member or function under the Act.

With respect to a disfigurement of the skin, the Act does provide:

“For serious disfigurement of the face, head or neck of a character likely to handicap an individual in securing or maintaining employment, proper and equitable compensation not to exceed \$3,500.00 shall be awarded in addition to any other compensation payable under this schedule.”⁶

Appellant indicated on the claim form that the affected area was below the collarbone and the photographic evidence of record also indicates that the affected area was below the neck. There is no probative evidence indicating a serious disfigurement of the face, head, or neck in this case, and therefore section 8107(21) is not implicated.

The Board notes that the record contains a report from Dr. Steven Chang, a psychiatrist, who diagnosed major depressive disorder and assigned an impairment rating to the body as a whole of 2 to 3 on a scale of 1 to 10. The Act does not provide for a schedule award for emotional conditions, nor, as noted above, for impairments to the body as a whole.

² A. *George Lampo*, 45 ECAB 441 (1994).

³ *Thomas E. Stubbs*, 40 ECAB 647 (1989).

⁴ *James E. Mills*, 43 ECAB 215 (1991).

⁵ A.M.A., *Guides* 280, Table 2 (4th ed. 1993).

⁶ 5 U.S.C. § 8107(21).

The decisions of the Office of Workers' Compensation Programs dated February 1, 1996 and June 23, 1995 are affirmed.

Dated, Washington, D.C.
April 6, 1998

George E. Rivers
Member

David S. Gerson
Member

Bradley T. Knott
Alternate Member