

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of PEGGY R. THOMPSON and DEFENSE LOGISTICS AGENCY,  
KELLY AIR FORCE BASE, San Antonio, TX

*Docket No. 00-2657; Submitted on the Record;  
Issued June 13, 2001*

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DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,  
PRISCILLA ANNE SCHWAB

The issue is whether appellant is entitled to augmented compensation on the basis that her grandfather qualifies as a dependant under section 8110 of the Federal Employees' Compensation Act.<sup>1</sup>

Appellant, a 51-year-old supervisor, filed a notice of occupational disease on November 17, 1997 alleging that she developed bilateral carpal tunnel syndrome due to factors of her federal employment. On her claim form, appellant indicated that her grandfather was a dependant. The Office of Workers' Compensation Programs accepted appellant's claim for bilateral carpal tunnel syndrome on December 8, 1997. The Office authorized both right and left surgical releases.

Appellant requested a schedule award on February 22, 1999. By decision dated April 22, 1999, the Office granted appellant schedule awards for 10 percent permanent impairment of each of her upper extremities. The Office indicated that appellant was compensated at the rate of 66 2/3 of her pay rate.

Appellant requested a review of the written record on May 8, 1999 and claimed that she was entitled to compensation at the augmented rate because her grandfather was a dependant. Appellant submitted her tax returns in support of her claim. By decision dated April 22, 1999, the hearing representative denied appellant's claim on the grounds that the Act did not provide for grandparents to be considered dependants.<sup>2</sup>

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<sup>1</sup> 5 U.S.C. § 8110.

<sup>2</sup> On appeal, appellant alleged that the Office had denied her request for additional surgery. However, there is no indication in the record that the Office has issued a final decision with appeal rights regarding this issue. As there is no final Office decision on this issue, the Board may not address this aspect of appellant's claim on appeal. 20 C.F.R. § 501.2(c). Following the hearing representative's April 22, 1999 decision, appellant submitted additional new evidence to the Office. As the Office has not considered this evidence in reaching a final decision, the Board will not review it for the first time on appeal.

The Board finds that appellant is not entitled to augmented compensation because a grandparent is not a dependant under the Act.

Section 8110(a) of the Act<sup>3</sup> defines a dependant as a wife, a husband, an unmarried child or a parent, wholly dependent on and supported by the employee. The Act does not include grandparents within the definitions of a dependant.<sup>4</sup> Appellant has submitted evidence that her grandfather has been determined to be a dependant by other agencies including the Internal Revenue Service for federal income tax purposes.

The terms of the Act are specific as to the method and amount of payment of compensation; neither the Office nor the Board has the authority to enlarge the terms of the Act nor to make an award of benefits under any terms other than those specified in the statute.<sup>5</sup> The Office is therefore bound to apply the definition of dependant found in 5 U.S.C. § 8110(a). As appellant has not submitted evidence of a dependant as defined by the Act, she has not established that she is entitled to compensation at the augmented rate.

The April 22, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC  
June 13, 2001

Michael J. Walsh  
Chairman

Michael E. Groom  
Alternate Member

Priscilla Anne Schwab  
Alternate Member

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<sup>3</sup> *Supra*, note 1.

<sup>4</sup> *See Helen M. Boggs*, 26 ECAB 75 (1974).

<sup>5</sup> *Josephine Bellardita*, 48 ECAB 362, 363 (1997).