

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ANDREW J. TERRY and DEPARTMENT OF JUSTICE,
IMMIGRATION & NATURALIZATION SERVICE, New York, NY

*Docket No. 02-144; Submitted on the Record;
Issued August 14, 2002*

DECISION and ORDER

Before ALEC J. KOROMILAS, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has greater than a six percent permanent impairment of his right foot, for which he received a schedule award.

The Board has given careful consideration to the issue involved, the contentions of the parties on appeal and the entire case record. The Board finds that the decision of the hearing representative of the Office of Workers' Compensation Programs dated September 12, 2001 and finalized September 13, 2001 is in accordance with the facts and the law in this case and hereby adopts the findings and conclusions of the Office hearing representative.¹

¹ Section 8107 of the Federal Employees' Compensation Act, 5 U.S.C. § 8107, sets forth the number of weeks of compensation to be paid for the permanent loss of use of specified members, functions and organs of the body. The Act, however, does not specify the manner by which the percentage loss of a member, function or organ shall be determined. To ensure consistent results and equal justice under the law, good administrative practice requires the use of uniform standards applicable to all claimants. The Act's implementing regulation has adopted the American Medical Association, *Guides to the Evaluation of Permanent Impairment* as the appropriate standard for evaluating schedule losses. 20 C.F.R. § 10.404 (1999). On January 29, 2001 the Office announced that, effective February 1, 2001, schedule awards would be determined in accordance with the A.M.A., *Guides* (5th ed. 2001). FECA Bulletin No. 01-05 (January 29, 2001). In the instant case, appellant has failed to provide any probative medical evidence that he has greater than a six percent permanent impairment of his right foot.

The decision of the Office of Workers' Compensation Programs dated September 12, 2001 and finalized September 13, 2001 is hereby affirmed.

Dated, Washington, DC
August 14, 2002

Alec J. Koromilas
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member