

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LAURA M. MESSINA and DEPARTMENT OF THE ARMY,
EVANS ARMY COMMUNITY HOSPITAL, Fort Carson, CO

*Docket No. 02-1751; Submitted on the Record;
Issued November 25, 2002*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
A. PETER KANJORSKI

The issues are: (1) whether the Office of Workers' Compensation Programs properly denied appellant's claim for compensation for one hour off work on December 6, 2000; and (2) whether appellant sustained a permanent impairment to her eyes which entitles her to a schedule award.

On February 16, 2000 appellant, then a 38-year-old dental assistant, filed a notice of traumatic injury alleging that on February 16, 2000 she was exposed to chemical fumes, which burned her eyes and throat. The Office accepted appellant's claim for "corneal opacity nos" and "destruction cornea les nec."

By decision dated June 28, 2001, the Office denied appellant's claim for disability compensation for one hour off work on December 6, 2000.

Appellant filed a claim for a schedule award on March 20, 2001. Dr. J. Douglas Bradley, a Board-certified family practitioner, examined appellant on September 21, 2000 and diagnosed her with bilateral corneal chemical scar. He stated:

"Without glasses or contacts far vision is 20/70 in both eyes. Glasses will not correct such a corneal deformity. Near vision is 20/70 right and 20/100 left. Reading glasses corrected this to 20/22 in May 27, 1998. With no lens involvement, there is no aphakia or pseudoaphakia. Using Table 3 on page 212 gives 18 percent visual impairment in each eye."

Dr. Ken A. Stone examined appellant on March 13, 2001 and stated: "The best corrected visual acuity is 20/25 OU, 20/25 OD and 20/50 OS. Using Tables 12-2 and 12-3, the functional acuity score (FAS) is 94. The acuity-related impairment rating is eight percent." Both physicians found that appellant's visual fields and ocular motility were normal.

The district medical adviser reviewed the medical evidence and stated that visual acuity of the eye must be reported as uncorrected. He indicated that the Office should obtain a report from Dr. Stone measuring the uncorrected visual acuity of the left eye and if not, should obtain a report of the uncorrected visual acuity of the left eye from another physician in order to proceed with the schedule award process.

By decision dated April 25, 2002, the Office denied appellant's claim for a schedule award.

The Board finds that the Office properly denied appellant's claim for compensation for one hour off work on December 6, 2000.

The Board has recognized that an employee is entitled to disability compensation for loss of wages incurred while receiving treatment and for loss of wages incidental to treatment for a work-related injury.¹

In this case, appellant submitted no evidence indicating that she received medical treatment on December 6, 2000. She submitted a medical report indicating that she was treated by Dr. Donald Bode on December 21 and 29, 2000 and again on January 4, 2001. There is no medical evidence of record supporting appellant's time off work on December 6, 2000. Therefore, the Office correctly denied appellant's claim for disability compensation for one hour on December 6, 2000.

The Board further finds that the issue of a schedule award and percentage of impairment is not in posture for decision.

The American Medical Association, *Guides to the Evaluation of Permanent Impairment* has been adopted by the Office and the Board has concurred in such adoption, as a standard for evaluating schedule loss.² The A.M.A., *Guides* indicate that the evaluation of visual impairment is based on deviations from normal on three functions; corrected visual acuity for distance and near vision, visual fields and ocular motility with accents of diplopia.³ Section 8107(c)(19) of the Federal Employees' Compensation Act⁴ provides that "[t]he degree of loss of vision or hearing under this schedule is determined without regard to correction."

In this case, Dr. Bradley reported that appellant had an 18 percent permanent impairment of both eyes based on uncorrected visual acuity. Dr. Stone, however, based his findings of eight percent permanent impairment of the eyes on corrected visual acuity. By letter dated July 28, 2001, the district medical adviser informed the Office that they must obtain a report from

¹ *Myrtle B. Carlson*, 17 ECAB (1966).

² *Stanley J. Mayer, Jr.*, 36 ECAB 435, 438 (1985).

³ A.M.A., *Guides*, pages 209-22 (4th ed. 1993).

⁴ 5 U.S.C. § 8107(c)(19).

Dr. Stone (or another physician) measuring the uncorrected visual acuity of the left eye, since the degree of loss of vision is determined without regard to correction.⁵

The Board finds that, since Dr. Bradley based his impairment rating on uncorrected visual acuity and Dr. Stone based his impairment rating on corrected visual acuity, the case must be remanded to the Office to recalculate the percentage of permanent loss of use of appellant's eyes without regard to correction. If deemed necessary, another examination and evaluation of appellant's vision should be authorized. Following such other development as deemed necessary, the Office should issue a *de novo* decision on this issue.

The decision of the Office of Workers' Compensation Programs dated June 28, 2001 is hereby affirmed and the decision dated April 25, 2002 is set aside and the case remanded to the Office for further action in accordance with this decision of the Board.

Dated, Washington, DC
November 25, 2002

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member

⁵ *Id.*