

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of AUDREY R. LEONARD and U.S. POSTAL SERVICE,
POST OFFICE, Carol Stream, IL

*Docket No. 02-1646; Submitted on the Record;
Issued January 6, 2003*

DECISION and ORDER

Before MICHAEL J. WALSH, ALEC J. KOROMILAS,
COLLEEN DUFFY KIKO

The issue is whether appellant is entitled to a schedule award for her work-related inguinal hernia.

On May 19, 2000 appellant, then a 30-year-old postal clerk, filed a notice of traumatic injury and claim for compensation (Form CA-1), alleging that she noticed pain in her left side that day while lifting objects at work.

In an August 21, 2000 decision, the Office of Workers' Compensation Programs accepted appellant's claim for left inguinal hernia.

On April 10, 2001 appellant filed a notice of recurrence of disability and claim for compensation (Form CA-2a). In a July 25, 2001 decision, the Office accepted the claim.

On October 3, 2001 appellant returned to work on a part-time basis. On November 29, 2001 appellant returned to work full time with no restrictions.

On December 17, 2001 appellant submitted a claim for a schedule award.

In a January 17, 2002 letter, the Office informed appellant of the information necessary to establish entitlement to a schedule award.

In a March 14, 2002 report, Dr. Marcelo E. Virgili, an orthopedic surgeon, wrote:

“I feel [appellant] has reached maximum medical improvement. Although I do not feel there is a permanent impairment, I cannot evaluate or quantify her subjective symptom of ‘a funny sensation or numbness’ in her medial thigh. She is functioning in a capacity in a full-time position and her only complaint is that she experiences some soreness below the incision site when she lifts too much.”

In an April 23, 2002 decision, the Office denied appellant's claim for a schedule award.

The Board finds that appellant has not established entitlement to a schedule award.

An employee seeking compensation under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of her claim by the weight of the reliable, probative and substantial evidence,² including that she sustained an injury in the performance of duty as alleged and that her disability, if any, was causally related to the employment injury.³

The schedule award provisions of the Act⁴ and its implementing regulation⁵ 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. However, the Act 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 American Medical Association, *Guides to the Evaluation of Permanent Impairment* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.⁶

Before the A.M.A., *Guides* may be utilized, however, the record must contain medical evidence describing the claimant's alleged permanent impairment. The Federal (FECA) Procedure Manual provides that in obtaining medical evidence required for a schedule award the evaluation must include "a detailed description of the impairment which includes, where applicable, the loss in degrees of active and passive motion of the affected member or function, the amount of any atrophy or deformity, decreases in strength or disturbance of sensation or other pertinent description of the impairment." This description must be in sufficient detail so that the claims examiner and other reviewing the file will be able to clearly visualize the impairment with its restrictions and limitations.⁷

In the present case, the only medical evidence, Dr. Virgili's March 14, 2002 report, submitted does not establish a permanent impairment. Therefore appellant has not met the requirements necessary for a schedule award.

¹ 5 U.S.C. §§ 8101-8193.

² *Donna L. Miller*, 40 ECAB 492, 494 (1989); *Nathaniel Milton*, 37 ECAB 712, 722 (1986).

³ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ 5 U.S.C. § 8107.

⁵ 20 C.F.R. § 10.404 (1999).

⁶ *See id.*; *James Kennedy, Jr.*, 40 ECAB 620, 626 (1989); *Charles Dionne*, 38 ECAB 306, 308 (1986).

⁷ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6 (August 2002). *See John H. Smith*, 41 ECAB 444, 448 (1990); *Alvin C. Lewis*, 36 ECAB 595, 596 (1985).

The April 23, 2002 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
January 6, 2003

Michael J. Walsh
Chairman

Alec J. Koromilas
Member

Colleen Duffy Kiko
Member