

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**DOLLYE M. CATCHINGS, Appellant** )

**and** )

**DEPARTMENT OF VETERANS AFFAIRS,** )  
**VETERANS ADMINISTRATION MEDICAL** )  
**CENTER, Decatur, GA, Employer** )

\_\_\_\_\_ )

**Docket No. 04-590**  
**Issued: April 16, 2004**

*Appearances:*  
*Dollye M. Catchings, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

COLLEEN DUFFY KIKO, Member  
DAVID S. GERSON, Alternate Member  
WILLIE T.C. THOMAS, Alternate Member

**JURISDICTION**

On December 30, 2003 appellant filed a timely appeal from the November 6, 2003 decision of the Office of Workers' Compensation Programs, which denied her claim for a schedule award. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the schedule award issue.

**ISSUE**

The issue is whether appellant has a ratable respiratory impairment as a result of her employment-related asthma, thereby entitling her to a schedule award.

**FACTUAL HISTORY**

On February 9, 2001 appellant, then a 53-year-old licensed clinical social worker, filed a notice of occupational disease and claim for compensation (Form CA-2), alleging that her respiratory problems were a result of her federal employment. The Office accepted her claim for the condition of asthma.

On July 26, 2002 appellant filed a claim for a schedule award. On August 20, 2002 the Office notified her of the medical evidence needed to support her claim. Specifically, the Office advised that it was seeking her doctor's assessment of permanent impairment.

In a decision dated December 17, 2002, the Office denied appellant's claim for a schedule award on the grounds that the evidence failed to support an impairment rating for her lungs. The Office noted that it had received no response to its request for medical evidence.

Appellant requested an oral hearing before an Office hearing representative. After the hearing, which was held on August 27, 2003 she submitted a September 11, 2003 report from Dr. Rana Rab-Hasan, a pulmonologist. Dr. Rab-Hasan related the history of appellant's present illness, her symptoms and findings on examination, including the results of pulmonary function tests (PFT) performed that day:

"PFT's done in the office today showed an FEV<sub>1</sub> [forced expiratory volume in the first second] of 2.73 at 115 percent predicted with an FVC [forced vital capacity] of 3.45 at 115 percent predicted and a ratio of 79 percent. No significant bronchodilator response was noted. Lung volumes and DLCO [diffusing capacity for carbon monoxide] were within normal limits."

Dr. Rab-Hasan diagnosed asthma and offered the following opinion on the issue of permanent impairment:

"As far as her questionnaire for work[ers'] comp[ensation] is concerned, I feel at this point [appellant] has achieved maximal medical improvement. There does not seem to be an[y] evidence of anatomical loss to either or both lungs. There does not appear to be any objective findings of impairment during the present examination. [Appellant's] subjective complaints causing impairment used to be cough, shortness of breath and wheezing. There does not appear to be any total body impairment. As noted above we know that patient's with asthma can have exacerbations, when they are exposed to any respiratory irritants, *i.e.* chemicals extremes of temperature, smoke, air pollution. This will be forwarded to the [O]ffice.... At this point I've asked her to follow up with Dr. Spin and I will see her here on a prn [as needed] basis."

In a decision dated November 6, 2003, the hearing representative denied appellant's claim for a schedule award. The hearing representative found that none of the medical evidence supported a ratable impairment.

### **LEGAL PRECEDENT**

Section 8107 of the Federal Employees' Compensation Act<sup>1</sup> authorizes the payment of schedule awards for the loss or loss of, use of specified members, organs or functions of the body. Such loss or loss of use of, is known as permanent impairment. The Office evaluates the

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<sup>1</sup> 5 U.S.C. § 8107.

degree of permanent impairment according to the standards set forth in the specified edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.<sup>2</sup>

### ANALYSIS

The fifth edition of the A.M.A., *Guides* sets forth special guidelines for evaluating impairment in individuals with asthma. Using Table 5-9, page 104, the scores for postbronchodilator FEV<sub>1</sub>, reversibility of FEV<sub>1</sub> (or PC<sub>20</sub>, Provocative Concentration that causes a 20 percent fall in FEV<sub>1</sub>) and the minimum medication needed to control the individual's asthma are added to obtain a summary score for respiratory impairment. Table 5-10 assigns impairment classes and percentages to the summary score. In determining the percentage impairment for a particular class, the examiner needs to consider how the person's asthma affects the ability to perform activities of daily living.<sup>3</sup>

Although appellant's pulmonologist, Dr. Rab-Hasan, reported that there did not seem to be any objective findings of impairment from his September 11, 2003 examination, he did not score her respiratory impairment according to the special guidelines set forth in the fifth edition of the A.M.A., *Guides*. He reported that appellant had achieved maximum medical improvement, but he did not make clear whether the pattern of her asthma was clinically stable and well treated based on fulfilling the objectives of treatment laid out on page 103 of the A.M.A., *Guides*.

As a general rule in schedule award cases, the physician should describe the impairment in sufficient detail to permit clear visualization of the impairment and the restrictions and limitations that have resulted.<sup>4</sup> Dr. Rab-Hasan's report does not clearly set forth the detail required to assess appellant's impairment under the A.M.A., *Guides*. Also, when the case appears to be in posture for a schedule award determination, the Office will ask the Office medical adviser to evaluate the case. The medical adviser is responsible for reviewing the file, particularly the medical report on which the award is to be based and for calculating the award.<sup>5</sup> The Office did not follow its procedures in this case. No medical adviser reviewed Dr. Rab-Hasan's report or attempted to follow the special guidelines for evaluating impairment using his reported clinical findings.

The Board will set aside the Office's November 6, 2003 decision denying appellant's claim for a schedule award and remand the case for further development of the medical evidence. After such further development as may be necessary to rate appellant's respiratory impairment properly under the A.M.A., *Guides*, the Office shall issue an appropriate final decision on appellant's claim for a schedule award.

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<sup>2</sup> 20 C.F.R. § 10.404 (1999). The Office began using the fifth edition of the A.M.A., *Guides* effective February 1, 2001. FECA Bulletin No. 01-05 (issued January 29, 2001).

<sup>3</sup> A.M.A., *Guides* 102-04 (5<sup>th</sup> ed. 2001).

<sup>4</sup> Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.3.a(2) (June 2003).

<sup>5</sup> Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Award*, Chapter 3.700.3 (June 2003).

**CONCLUSION**

The Board finds that this case is not in posture for a decision on whether appellant has a ratable respiratory impairment as a result of her employment-related asthma, thereby entitling her to a schedule award. Further development of the medical evidence is warranted.

**ORDER**

**IT IS HEREBY ORDERED THAT** the November 6, 2003 decision of the Office of Workers' Compensation Programs is set aside and the case remanded for further action consistent with this opinion.

Issued: April 16, 2004  
Washington, DC

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member