

FACTUAL HISTORY

On September 8, 1995 the Office accepted that appellant sustained a right shoulder strain in an August 26, 1995 employment-related motor vehicle accident. The employing establishment terminated appellant's employment on September 15, 1995 due to failure to work in a safe manner.

By decision dated May 27, 1997, an Office hearing representative accepted the additional condition of cervical spine strain and ordered payment of compensation for temporary total disability beginning September 15, 1995. By decision dated November 18, 1997, the Office terminated appellant's compensation on the basis that she was no longer disabled by residuals of her August 26, 1995 employment injury. The Office denied appellant's requests for reconsideration by merit decisions dated June 4 and August 26, 1998, September 7, 1999 and September 21, 2000 and in a nonmerit decision dated November 27, 2000. In a decision dated December 26, 2001, the Office found that appellant's November 7, 2001 request for reconsideration of its decisions terminating her compensation was not timely filed and did not demonstrate clear evidence of error.

On June 4, 1998 appellant filed a claim for compensation for an emotional condition related to her August 26, 1995 employment injury. By decision dated October 22, 1998, the Office found that appellant's emotional disorders were not shown to be causally related to her employment injury. Office denied appellant's requests for reconsideration on this issue in merit decisions dated February 24, March 18 and June 17, 1999 and in nonmerit decisions dated August 17 and October 20, 1999.

On September 15, 2000 appellant filed a claim for a schedule award for her right hand. By decision dated November 15, 2000, the Office found that appellant had no permanent impairment of her right hand. On January 17, 2001 the Office denied appellant's request for reconsideration of this decision with a review on the merits and again denied reconsideration after a merit review on May 31, 2001.

By letter to her congressional representative dated June 18, 2002, appellant contended that she had not received compensation for the injury to her right hand sustained in the August 26, 1995 employment injury.

By decision dated July 30, 2002, the Office referred to its prior decisions terminating appellant's compensation and denying her claim for a schedule award. After noting that appellant was claiming compensation for temporary total disability for her right hand during the same period she had already been paid (September 15, 1995 to October 21, 1997), the Office found:

"It is well established that a claimant is not entitled to dual workers' compensation benefits for temporary total disability for different parts of the body during the same period. You may not receive compensation for temporary total disability for each part of the body injured during the same period. When the statute provides parallel remedies for the same injury, it is not intended that claimant should have both."

LEGAL PRECEDENT

The Federal Employees' Compensation Act does not provide for dual payment of compensation for temporary total disability for separate injuries covering the same period.¹ Compensation for disability, as distinguished from compensation under a schedule award, is paid under the Act to reimburse a claimant for an employment-related loss of wage-earning capacity, that is, an inability to earn wages. An employee cannot have more than a 100 percent loss of wage-earning capacity and a claimant receiving compensation for temporary total disability is not entitled to additional compensation benefits for disability.²

ANALYSIS

The Office by its July 30, 2002 decision, did not adjudicate the previously adjudicated issues of entitlement to a schedule award or termination of compensation on October 21, 1997. The Office's July 30, 2002 decision also did not address the issue of whether appellant was disabled by a right hand condition after October 21, 1997.

The Office's July 30, 2002 decision addressed only whether appellant could receive additional compensation for disability during the period she had previously received compensation for temporary total disability -- September 15, 1995 to October 21, 1997. The Office properly found that appellant could not receive additional compensation during this period. She already received compensation for temporary total disability, which is the maximum compensation for disability under the Act. Appellant is not entitled to further compensation during the period from September 15, 1995 to October 21, 1997.

CONCLUSION

Appellant is not entitled to additional compensation for disability during the period from September 15, 1995 to October 21, 1997.

¹ *Carolyn M. Leek*, 47 ECAB 374 (1996).

² *Burnice Gish*, 33 ECAB 376 (1981).

ORDER

IT IS HEREBY ORDERED THAT the July 30, 2002 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 19, 2004
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member