

supervisor and paid compensation for periods of disability.¹ The Board issued a decision on October 12, 2005 reversing the Office's determination that she was not disabled for 11 hours between May 21 and June 13, 2003 due to her accepted emotional condition.² The facts and circumstances of the case up to that point are set forth in the Board's prior decision and are incorporated herein by reference.³

By decision dated March 29, 2006, the Office denied appellant's claim for a schedule award in connection with her accepted emotional condition. The Office stated that appellant's claim did not involve a scheduled member, function or organ under the Federal Employees' Compensation Act or its own regulations. It stated: "There is no scheduled member to be used for an accepted condition involving the body as a whole or for an emotional condition such as yours."

LEGAL PRECEDENT

The schedule award provision of the Act⁴ and its implementing regulation⁵ sets 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.⁶ No schedule award is payable for a member, function or organ of the body that is not specified in the Act or the implementing regulations.⁷ The Act identifies members as the arm, leg, hand, foot, thumb and finger, functions as loss of hearing and loss of vision and organs to include the eye.⁸ Section 8107(c)(22) of the Act provides for payment of compensation for permanent loss of "any other important external or internal organ of the body as determined by the Secretary [of Labor]."⁹ The Secretary of Labor has made such a determination and, pursuant to the authority granted in section 8107(c)(22), added the breast, kidney, larynx, lung, penis, testicle, tongue, ovary,

¹ On September 20, 2005 appellant filed a claim for a schedule award in connection with her accepted emotional condition.

² Docket No. 05-739 (issued October 12, 2005).

³ In its October 12, 2005 decision, the Board noted that appellant's case file for an accepted plantar fasciitis condition (file number 132051713) had been associated with the file for her emotional condition claim. The Board indicated that it did not appear that the Office had issued a final decision with regard to appellant's entitlement to schedule award compensation for her accepted foot condition. The Board notes that the present case record does not appear to contain documents relating to appellant's accepted foot condition. It remains unclear whether the Office has made a determination regarding appellant's entitlement to schedule award compensation for this condition and the matter is not currently before the Board.

⁴ 5 U.S.C. § 8107.

⁵ 20 C.F.R. § 10.404 (1999).

⁶ *Id.*

⁷ See *Donald A. Larson*, 41 ECAB 947 (1990).

⁸ 5 U.S.C. § 8107(c).

⁹ 5 U.S.C. § 8107(c)(22).

uterus/cervix and vulva/vagina to the schedule.¹⁰ Moreover, a schedule award is not payable under section 8107 of the Act for an impairment of the whole person.¹¹

ANALYSIS

The Office accepted that appellant sustained major depression due to the performance of her regular duties as a supervisor. On September 20, 2005 appellant filed a claim for a schedule award in connection with her accepted emotional condition.

The Board notes that appellant's claim for schedule award compensation in connection with her accepted emotional condition does not relate to any of the scheduled members, functions or organs specified in the Act or the Office's regulations.¹² The Office has not accepted that appellant sustained a physical condition as a consequence of her accepted major depression condition and she has not submitted medical evidence showing that she has such a condition. As noted, a schedule award is not payable under the Act for an impairment of the whole person.¹³ Appellant has not articulated a reason that her accepted emotional condition would entitle her to schedule award compensation and the Office properly denied her claim.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that she is entitled to schedule award compensation in connection with her accepted emotional condition claim.

¹⁰ 20 C.F.R. § 10.404(a). The Board notes that the Office has awarded schedule awards for conditions which are not covered under the compensation schedule if the condition is shown to have contributed to impairment of a scheduled member. *See Thomas J. Engelhart*, 50 ECAB 319, 320-21 (1999).

¹¹ *See Gordon G. McNeill*, 42 ECAB 140, 145 (1990).

¹² *See supra* notes 7 through 10 and accompanying text.

¹³ *See supra* note 11 and accompanying text.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' March 29, 2006 decision is affirmed.

Issued: October 10, 2006
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board