



on August 1, 1996 issued a schedule award for a 13 percent permanent impairment of his left lower extremity. On November 21, 2006 the Office determined that appellant had a 26 percent impairment of the left lower extremity. The Board reviewed the medical evidence and found that appellant in fact had no more than a 23 percent permanent impairment. The Board modified the Office's November 21, 2006 decision and affirmed the decision as modified. The facts of this case as set forth in the Board's prior decision are hereby incorporated by reference.

On October 12, 2007, without additional relevant evidence, the Office issued a schedule award for the 23 percent permanent impairment of appellant's left lower extremity. Because appellant previously received compensation for the first 13 percent of this impairment, the Office awarded compensation for the additional 10 percent.

### **LEGAL PRECEDENT**

Section 8107 of the Federal Employees' Compensation Act authorizes the payment of schedule awards for the loss or loss of use of specified members, organs or functions of the body. For the total loss of a lower extremity, the schedule provides 288 weeks of compensation.<sup>2</sup> Partial losses are compensated proportionately.<sup>3</sup>

### **ANALYSIS**

Appellant filed an appeal asking the Board to review the Office's October 12, 2007 schedule award, but he provided the Board no statement of contentions, no description of any complaint he had with the Office's final decision.<sup>4</sup> To the extent that he may question the impairment percentage awarded, the Board resolved this issue on the last appeal when it found that appellant has no more than a 23 percent permanent impairment of his left lower extremity. After this finding, and without additional relevant evidence to change the state of the record, the Office issued a schedule award in accordance with the Board's decision. The percentage of appellant's impairment is therefore a settled matter and will not be reviewed further on this appeal.<sup>5</sup>

As the Board noted earlier, the Act provides 288 weeks of compensation for the total loss of a leg, and partial losses are compensated proportionately. Appellant is therefore entitled to 23 percent times 288 weeks of compensation, or 66.24 total weeks of compensation for his permanent impairment. He previously received a schedule award for the first 13 percent, or 37.44 weeks of compensation (0.13 times 288). Appellant is therefore entitled to an additional 10 percent, or 28.8 weeks of compensation (0.10 times 288), which is what the Office awarded on October 12, 2007. The Board will affirm the Office's decision.

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<sup>2</sup> 5 U.S.C. § 8107(c)(2).

<sup>3</sup> *Id.* at § 8107(c)(19).

<sup>4</sup> *See* 20 C.F.R. § 501.3(c) (contents of application for review).

<sup>5</sup> *Hugo A. Mentink*, 9 ECAB 628, 629 (1958) (the employee submitted argument in an application for review to the Office regarding the causal relationship of his hearing loss to his employment, an issue which had been reviewed and decided by the Board in a previous appeal).

**CONCLUSION**

The Board finds that the Office properly awarded compensation for the 23 percent permanent impairment of appellant's left lower extremity.

**ORDER**

**IT IS HEREBY ORDERED THAT** the October 12, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 8, 2008  
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