



work that day and submitted a September 14, 2007 treatment note with illegible signatures. The report noted the history of injury and diagnosed a 0.5 centimeter through-and-through lower lip laceration that was cleaned with betadine and glued closed. On September 14, 2007 Dr. Anjani Swarna, a Board-certified internist, advised that appellant sustained a lip injury when hit in the fact by a patient. He noted a swollen lower lip and subcutaneous tissue of the chin. In a September 19, 2007 progress note, Dr. Ross B. Armour, Board-certified in family medicine, advised that appellant had mild swelling of the left lip that appeared to be healing well. On October 12, 2007 appellant filed a schedule award claim.

By letter dated October 26, 2007, the Office accepted the claim for open wound of the lip with complications. It advised appellant to submit medical evidence in accordance with the fifth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (hereinafter A.M.A., *Guides*)<sup>1</sup> to support her schedule award claim. In a November 9, 2007 report, Dr. Swarna stated that he had evaluated appellant on September 14, 2007 for treatment of a lip injury, noting that she was given a tetanus vaccine, a prescription for antibiotics and advised to return as needed.

In a decision dated February 4, 2008, the Office denied appellant's claim for a schedule award on the grounds that she had not submitted sufficient medical evidence.

On February 25, 2008 appellant requested a review of the written record. By decision dated June 2, 2008, an Office hearing representative affirmed the February 4, 2008 decision. The hearing representative noted that the lip was not a scheduled member under section 8107 of the Federal Employees' Compensation Act or section 10.404 of Office regulations.<sup>2</sup> Moreover, while the Act provides for facial disfigurement that is likely to handicap a claimant in securing and maintaining employment, appellant had not specifically claimed any disfigurement and the medical evidence did not establish any permanent facial disfigurement.

### **LEGAL PRECEDENT**

Pursuant to section 8107 of the Act and section 10.404 of the implementing federal regulations,<sup>3</sup> schedule awards are payable for permanent impairment of specified body members, functions or organs. The Act, however, does not specify the manner in which the percentage of impairment shall be determined. For consistent results and to ensure equal justice under the law for 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 A.M.A., *Guides*<sup>4</sup> has been

---

<sup>1</sup> A.M.A., *Guides* (5<sup>th</sup> ed. 2001); *Joseph Lawrence, Jr.*, 53 ECAB 331 (2002).

<sup>2</sup> 5 U.S.C. § 8107; 20 C.F.R. § 10.404.

<sup>3</sup> *Id.*

<sup>4</sup> A.M.A., *Guides*, *supra* note 1.

adopted by the Office and the Board has concurred in such adoption, as an appropriate standard for evaluating schedule losses.<sup>5</sup>

The Act identifies members such as the arm, leg, hand, foot, thumb and finger; functions such as loss of hearing and loss of vision; and organs to include the eye. Section 8107(c)(22) provides for the payment of compensation for permanent loss of any other important external or internal organ of the body as determined by the Secretary of Labor.<sup>6</sup> 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, ovary, uterus and tongue to the schedule.<sup>7</sup> A schedule award is not payable for the loss or loss of use, of a member or function of the body not specifically listed in the Act or in its implementing regulations.<sup>8</sup>

### ANALYSIS

The Board finds that appellant has not established that she is entitled to a schedule award. Appellant's claim was accepted for open wound of the lip. As noted, no schedule award is payable for a member, function or organ of the body not specified in the Act or its implementing regulations.<sup>9</sup> The Act does not specify the lip as a scheduled member warranting compensation. Furthermore, the Secretary has not determined, pursuant to the discretionary authority granted in section 8107(c)(22) of the Act, that the lip constitutes "any other important external or internal organ of the body."

The Board notes that section 8107(c)(21) of the Act provides that compensation not to exceed \$3,500.00 shall be awarded for serious disfigurement of the face, head or neck of a character likely to handicap an individual in securing or maintaining employment, in addition to any other compensation payable under the schedule.<sup>10</sup> However, appellant has not claimed and the medical evidence does not establish that she is entitled an award for facial disfigurement. The lip laceration she sustained was repaired and on September 19, 2007, Dr. Armour advised that her lip appeared to be healing well. Section 8107(c)(21) is therefore not applicable in this case.

---

<sup>5</sup> See *Joseph Lawrence, Jr.*, *supra* note 1; *James J. Hjort*, 45 ECAB 595 (1994); *Leisa D. Vassar*, 40 ECAB 1287 (1989); *Francis John Kilcoyne*, 38 ECAB 168 (1986).

<sup>6</sup> 5 U.S.C. § 8107(22).

<sup>7</sup> 20 C.F.R. § 10.404; see *Anna V. Burke*, 57 ECAB 521 (2006).

<sup>8</sup> *J.W.*, 59 ECAB \_\_\_\_ (Docket No. 07-1989, issued January 8, 2008).

<sup>9</sup> *Supra* note 2; *Anna V. Burke*, *supra* note 7.

<sup>10</sup> 5 U.S.C. § 8107(c)(21).

**CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish that she sustained any permanent impairment due to her accepted wound of the lip.<sup>11</sup>

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated June 2, 2008 be affirmed.

Issued: March 9, 2009  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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

---

<sup>11</sup> The Board notes that appellant submitted evidence to the Office subsequent to the June 2, 2008 decision and with her appeal to the Board. The Board cannot review this evidence, however, as its review of the case is limited to the evidence of record that was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c); *see Sandra D. Pruitt*, 57 ECAB 126 (2005).