

radiculopathy L5, aggravation of degenerative disc disease L5 and aggravation of lumbosacral spondylosis at L5. Appellant received appropriate compensation benefits. Reports from Dr. Carroll M. McLeod, a Board-certified anesthesiologist, noted appellant's treatment for low back and right leg pain.

On November 17, 2010 appellant claimed a schedule award. By letter dated December 1, 2010, OWCP requested an opinion from her treating physician regarding how her work-related back condition caused permanent impairment of the lower extremities pursuant to the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, (6th ed. 2009) (*hereinafter*, A.M.A., *Guides*).

In an October 18, 2010 surgical report, Dr. McLeod placed a permanent spinal cord stimulator and pulse generator in appellant's spine. Laboratory reports also accompanied the operative report. OWCP also received administrative records from healthcare providers and reports dated January 24 and February 23, 2011 from an occupational therapist.

On March 17, 2011 OWCP denied appellant's claim for a schedule award finding that the medical evidence did not rate any impairment under the A.M.A., *Guides*.

LEGAL PRECEDENT

The schedule award provision of the FECA² and its implementing federal regulations,³ set 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. However, FECA does not specify the manner in which the percentage of loss shall be determined. For consistent results and to ensure equal justice under the law for all claimants, OWCP has adopted the A.M.A., *Guides* as the uniform standard applicable to all claimants.⁴ For decisions issued after May 1, 2009, the sixth edition will be used.⁵

Although the A.M.A., *Guides* includes guidelines for estimating impairment due to disorders of the spine, a schedule award is not payable under FECA for injury to the spine.⁶ In 1960, amendments to FECA modified the schedule award provisions to provide for an award for permanent impairment to a member of the body covered by the schedule regardless of whether the cause of the impairment originated in a scheduled or nonscheduled member. Therefore, as the schedule award provisions of FECA include the extremities, a claimant may be entitled to a schedule award for permanent impairment to an extremity even though the cause of the impairment originated in the spine.⁷

² 5 U.S.C. § 8107.

³ 20 C.F.R. § 10.404.

⁴ *Id.* at § 10.404(a).

⁵ FECA Bulletin No. 09-03 (issued March 15, 2009).

⁶ *Pamela J. Darling*, 49 ECAB 286 (1998).

⁷ *Thomas J. Engelhart*, 50 ECAB 319 (1999).

A schedule award can be paid only for a condition related to an employment injury. The claimant has the burden of proving that the condition for which a schedule award is sought is causally related to her employment.⁸

ANALYSIS

OWCP accepted appellant's claim for sprain of the back, aggravation of lumbosacral radiculitis/radiculopathy, aggravation of degenerative disc disease and aggravation of lumbosacral spondylosis at L5. However, the evidence of record is insufficient to establish that she sustained permanent impairment of a scheduled body member, in accordance with the sixth edition of the A.M.A., *Guides*, causally related to her accepted conditions.

On December 1, 2010 OWCP requested that appellant provide an opinion from her physician regarding how her work-related conditions caused permanent impairment of the upper or lower extremities pursuant to the A.M.A., *Guides*. The October 18, 2010 report from Dr. McLeod noted the placement of a permanent spinal cord stimulator and pulse generator in appellant's spine. This report is insufficient to establish any employment-related permanent impairment of either lower extremity. Dr. McLeod did not offer any opinion supporting that appellant had lower extremity impairment due to her accepted back conditions and or address impairment pursuant to the A.M.A., *Guides*.⁹ Appellant has not submitted any medical evidence to establish that she has permanent impairment of either leg, caused by her accepted back conditions.

Appellant also submitted occupational therapy reports. However, these have no probative medical value as they are not from a physician.¹⁰ Thus, they are insufficient to establish employment-related permanent impairment of a scheduled body member.

The Board finds that the medical evidence does not establish that appellant has any permanent impairment causally related to her accepted back conditions. Consequently, OWCP properly denied appellant's claim for a schedule award.

On appeal, appellant disagreed with the denial of her claim for a schedule award. She contends that she experienced pain on a daily basis and gained additional weight from the medication. Appellant also indicated that she had high blood pressure due to her injury. As noted, the question of work-related permanent impairment is a medical question. Appellant has

⁸ *Veronica Williams*, 56 ECAB 367 (2005).

⁹ *Paul R. Evans, Jr.*, 44 ECAB 646 (1993) (a medical report not explaining how the A.M.A., *Guides* are utilized is of little probative value).

¹⁰ *See James Robinson, Jr.*, 53 ECAB 417 (2002) (records from a therapist do not have probative medical value as a therapist is not a physician as defined under FECA and therefore not competent to render a medical opinion); *see* 5 U.S.C. § 8101(2) (defines the term physician as used within FECA).

not submitted any medical evidence to establish that she has a ratable permanent impairment pursuant to the A.M.A., *Guides*.¹¹

Appellant may request a schedule award or increased schedule award based on evidence of a new exposure or medical evidence showing progression of an employment-related condition resulting in permanent impairment or increased impairment.

CONCLUSION

The Board finds that OWCP properly denied appellant's claim for a schedule award.

ORDER

IT IS HEREBY ORDERED THAT the March 17, 2011 Office of Workers' Compensation Programs' decision is affirmed.

Issued: December 22, 2011
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

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

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

¹¹ Regarding appellant's high blood pressure, the Board notes that OWCP has not accepted this condition as being employment related.