

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**L.T., Appellant**

**and**

**DEPARTMENT OF THE ARMY, ARMY  
CORPS OF ENGINEERS, Memphis, TN,  
Employer**

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**Docket No. 11-1187  
Issued: December 23, 2011**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

RICHARD J. DASCHBACH, Chief Judge  
MICHAEL E. GROOM, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On April 19, 2011 appellant filed a timely appeal from an April 7, 2011 decision of the Office of Workers' Compensation Programs (OWCP) regarding a schedule award. Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant established that he sustained more than an eight percent impairment of the right ring finger, for which he received a schedule award.

On appeal, appellant asserts that OWCP should have developed the schedule award claim as a hand fracture and not a finger fracture.

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

## FACTUAL HISTORY

OWCP accepted that on September 6, 2002 appellant, then a 39-year-old winchman, sustained a closed fracture with malunion of the metacarpal neck of the right ring finger while repairing a tank. From October through December 2002, appellant was treated by Dr. R. Jeffrey Cole, an attending Board-certified orthopedic surgeon, who diagnosed a metacarpal neck fracture of the right ring finger with abundant callous formation, 20 degrees dorsal angulation and malunion. He resigned from the employing establishment in August 2003.

On August 31, 2009 appellant claimed a schedule award. In a December 9, 2009 letter, OWCP advised him to submit an impairment rating from his attending physician referring to the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (hereinafter, "A.M.A., *Guides*").

Appellant submitted a June 15, 2010 impairment rating by Dr. James Calandruccio, an attending Board-certified orthopedic and hand surgeon, who obtained November 17, 2009 x-rays showing a right fourth metacarpal neck fracture with malunion. Dr. Calandruccio noted mildly restricted motion of the metaphalangeal joint of the right ring finger and normal grip strength. Referring to Table 15-2<sup>2</sup> of the A.M.A., *Guides*, he identified the diagnosed condition (CDX) as a grade 1 fracture of the right fourth metacarpal head with malunion. Dr. Calandruccio found grade 1 modifiers for Functional History (GMFH), Physical Examination (GMPE) and Clinical Studies (GMCS).<sup>3</sup> Using the net adjustment formula of (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX) or (1-1) + (1-1) + (1-1), he found that no grade adjustment was necessary, resulting in a class C impairment. This totaled eight percent permanent impairment of the right ring finger.

On July 9, 2010 OWCP asked its medical adviser to review Dr. Calandruccio's report and provide a schedule award calculation. In a July 9, 2010 report, its medical adviser concurred with Dr. Calandruccio's determination of an eight percent impairment of the right ring finger.

By decision dated August 10, 2010, OWCP granted appellant a schedule award for eight percent permanent impairment of the right ring finger. The period of the award ran from June 15 to 28, 2010.

In an August 17, 2010 letter, appellant requested a telephonic hearing, held January 19, 2011. At the hearing, he asserted that OWCP's delay in approving his claim caused additional impairment to his right hand because surgery could no longer be performed and the fracture healed improperly. Appellant noted continued pain and paresthesias in the right hand with loss of function.

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<sup>2</sup> Table 15-2, page 393 of the sixth edition of the A.M.A., *Guides* is entitled "Digit Regional Grid: Digit Impairments -- Fractures."

<sup>3</sup> A.M.A., *Guides* (6<sup>th</sup> ed. 2008), pp. 494-531.

Appellant submitted August 30 and November 2, 2010 chart notes from Dr. Calandrucchio listing continued pain and limited motion in the right ring finger. In a January 25, 2011 report, Dr. Calandrucchio noted “some numbness” in the thumb and all fingers of the right hand with inconsistent two-point discrimination. He opined that the accepted metacarpal fracture was a hand level injury, “not necessarily [to] [appellant’s] ring finger.”

By decision dated and finalized April 7, 2011, OWCP affirmed its August 10, 2010 schedule award for eight percent impairment of the right ring finger. The hearing representative found that although Dr. Calandrucchio opined that the accepted fracture was a “hand level injury,” he provided a rating for the ring finger and not the hand. OWCP’s hearing representative further found that Dr. Calandrucchio’s remarks regarding sensory loss in the right hand were too vague to support any additional percentage of impairment.

### **LEGAL PRECEDENT**

The schedule award provisions of FECA<sup>4</sup> provide for compensation to employees sustaining impairment from loss or loss of use of specified members of the body. FECA, however, does not specify the manner in which the percentage loss of a member shall be determined. The method used in making such determination is a matter which rests in the sound discretion of OWCP. For consistent results and to ensure equal justice, the Board has authorized the use of a single set of tables so that there may be uniform standards applicable to all claimants. The A.M.A., *Guides* has been adopted by OWCP as a standard for evaluation of schedule losses and the Board has concurred in such adoption.<sup>5</sup> For schedule awards after May 1, 2009, the impairment is evaluated under the sixth edition of the A.M.A., *Guides*, published in 2008.<sup>6</sup>

The sixth edition of the A.M.A., *Guides* provides a diagnosis-based method of evaluation utilizing the World Health Organization’s International Classification of Functioning, Disability and Health (ICF).<sup>7</sup> Under the sixth edition, the evaluator identifies the impairment class for the CDX, which is then adjusted by grade modifiers based on GMFH, GMPE and GMCS.<sup>8</sup> The net adjustment formula is (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX).

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<sup>4</sup> 5 U.S.C. § 8107.

<sup>5</sup> *Bernard A. Babcock, Jr.*, 52 ECAB 143 (2000).

<sup>6</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6.6a (January 2010); *see also* Part 3 -- *Medical, Schedule Awards*, Chapter 3.700.2 and Exhibit 1 (January 2010).

<sup>7</sup> A.M.A., *Guides* (6<sup>th</sup> ed. 2008), page 3, section 1.3, “The International Classification of Functioning, Disability and Health (ICF): A Contemporary Model of Disablement.”

<sup>8</sup> *Supra* note 3.

## ANALYSIS

OWCP accepted that appellant sustained a closed fracture of the metacarpal neck of the right ring finger and malunion of the fracture. Appellant claimed a schedule award on August 31, 2009. Dr. Calandrucchio, an attending Board-certified orthopedic surgeon, provided a June 15, 2010 impairment rating according to the A.M.A., *Guides*. Relying on Table 15-2, he identified a CDX as a fracture of the right fourth metacarpal head with malunion. Dr. Calandrucchio found grade 1 GMFH, GMPE and GMCS modifiers. Using the net adjustment formula of (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX), he calculated a grade adjustment of zero. Dr. Calandrucchio determined that the default grade of C equaled an eight percent permanent impairment of the right ring finger. In a July 9, 2010 report, OWCP's medical adviser concurred with Dr. Calandrucchio's impairment rating. Based on Dr. Calandrucchio's opinion, OWCP issued a schedule award for eight percent impairment of the right ring finger on August 10, 2010.

Appellant disagreed with the percentage of impairment and requested a telephonic hearing. He submitted additional reports from Dr. Calandrucchio noting unspecified sensory loss in the right hand and characterizing the accepted fracture as a hand injury. By April 7, 2011 decision, OWCP affirmed the August 10, 2010 schedule award.

The Board finds that Dr. Calandrucchio applied the appropriate tables and grading schemes in evaluating appellant's impairment. There is no probative medical evidence indicating a greater percentage of impairment. Although Dr. Calandrucchio noted on January 25, 2011 that appellant had some sensory loss in the right hand, he did not quantify this observation or indicate that these findings warranted an additional impairment. Therefore, the April 7, 2011 decision was proper under the law and facts of this case.

On appeal, counsel asserts that OWCP should have developed his schedule award claim as one for permanent impairment of the right hand, not the right ring finger. However, it was Dr. Calandrucchio that determined the appropriate impairment rating was to the finger and not that hand.

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 appellant has not established that he sustained more than an eight percent impairment of the right ring finger, for which he received a schedule award.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated April 7, 2011 is affirmed.

Issued: December 23, 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