



interest cannot be deprived without due process, citing *Goldberg v. Kelly*, 397 U.S. 254 (1970) and *Mathews v. Eldridge*, 424 U.S. 319 (1976). These cases held only that a claimant who was in receipt of benefits (in *Goldberg* welfare benefits and in *Mathews* social security benefits) could not have those benefits terminated without procedural due process. In this case, appellant simply made a claim for a schedule award. He was not in receipt of schedule award benefits nor was OWCP attempting to terminate benefits. Appellant had no vested right to a schedule award under the fifth edition of the A.M.A., *Guides*. In *Harry D. Butler*,<sup>2</sup> the Board noted that Congress delegated authority to the Director of OWCP regarding the specific methods by which permanent impairment is to be rated. Pursuant to this authority, the Director adopted the A.M.A., *Guides* as a uniform standard applicable to all claimants and the Board has concurred in the adoption.<sup>3</sup> On March 15, 2009 the Director exercised authority to advise that as of May 1, 2009 all schedule award decisions of the Office should reflect use of the sixth edition of the A.M.A., *Guides*.<sup>4</sup> The applicable date of the sixth edition is as of the date the schedule award decision is reached. It is not determined by either the date of maximum medical improvement or when the claim for such award was filed. Accordingly,

**IT IS HEREBY ORDERED THAT** the August 25, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 26, 2011  
Washington, DC

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

Alec J. Koromilas, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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<sup>2</sup> 43 ECAB 859 (1992).

<sup>3</sup> *Id.* at 866.

<sup>4</sup> FECA Bulletin No. 09-03 (issued March 15, 2009). The FECA Bulletin was incorporated in the Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Award & Permanent Disability Claims*, Chapter 2.808.6(a) (January 2010).