

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

C.S., Appellant)

and)

U.S. POSTAL SERVICE, POST OFFICE,)
Chicago, IL, Employer)

**Docket No. 11-2017
Issued: April 25, 2012**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On September 8, 2011 appellant filed a timely appeal from the July 21, 2011 merit decision of the Office of Workers' Compensation Programs (OWCP), which denied a schedule award for her accepted emotional condition. Pursuant to the Federal Employees' Compensation Act¹ (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 may receive a schedule award for her employment-related emotional condition.

FACTUAL HISTORY

In 1988 appellant, a 33-year-old manual distribution clerk, sustained an occupational injury in the performance of duty from repetitively sorting mail. OWCP accepted her claim for

¹ 5 U.S.C. § 8101 *et seq.*

bilateral carpal tunnel syndrome, left shoulder rotator cuff impingement, upper limb causalgia, and subsequent adjustment reaction with mixed anxiety and depressed mood. Appellant received compensation for temporary total disability on the periodic rolls.

On October 13, 2010 OWCP issued a schedule award for an eight percent impairment of each upper extremity.

Appellant requested reconsideration. She argued that OWCP had accepted her claim for mixed anxiety and depressed mood, and she believed she was entitled to a schedule award for this condition. Appellant explained that her injury caused her emotional condition, for which she had been admitted three times: “You just don’t understand how depressed I am. I cry for no reason. I usually go to a psychologist but stopped because it seems it’s not helping. I lost interest in life. I have no social life. I only go out to see a doctor. I admired my husband for putting up to me with this situation.”

In a July 21, 2011 decision, OWCP denied modification of its schedule award. It explained that FECA and the implementing regulations provided schedule awards only for the permanent loss or loss of use of a listed member or function of the body. No schedule awards were authorized for emotional conditions.

On appeal, appellant argued that OWCP gave her a schedule award for her physical impairment but did not approve her anxiety and depression due to her injuries. She reiterated that OWCP should pay compensation for her depression.

LEGAL PRECEDENT

Section 8107 of FECA authorizes the payment of schedule awards for the loss, or loss of use, of specified members, functions or organs of the body.²

ANALYSIS

The specific members enumerated in section 8107 include the arm, leg, hand, foot, eye, thumb, finger and toe. Functions of the body include loss of hearing and loss of vision. Organs, added by regulation,³ include the breast, kidney, larynx, lung, penis, testicle, tongue, ovary, uterus/cervix and vulva/vagina.

No schedule award is payable for a member, function or organ of the body not specified under FECA or the implementing regulations.⁴ FECA specifically provides that the brain is

² *Id.* at § 8107.

³ 20 C.F.R. § 10.404(a).

⁴ *Patricia J. Horney*, 56 ECAB 256 (2005).

excluded from the meaning of “organ.”⁵ Neither FECA nor the regulations authorize the payment of a schedule award for loss of cognitive function.⁶

Because Congress made no provision in the law for a schedule award based on an emotional condition, no claimant may receive such an award. In the case of *D.K.*,⁷ the claimant, a 35-year-old mail processor, sustained a traumatic emotional condition in the performance of duty. OWCP accepted his claim for aggravation of major depression and aggravation of anxiety disorder. When the claimant requested a schedule award, it denied his claim on the grounds that there was no provision in FECA for such an award. The Board affirmed, explaining that a schedule award is not payable under FECA for an accepted emotional condition.⁸

Appellant may claim medical benefits for the accepted condition of adjustment reaction with mixed anxiety and depressed mood. She may claim wage-loss compensation for any disability caused by that emotional condition. There is nothing in the law that provides her to receive a schedule award for her accepted anxiety and depression. For that reason, the Board will affirm OWCP’s July 21, 2011 decision denying her request for such an award.

With respect to any physical impairment, 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 to a scheduled member, organ or function of the body.

CONCLUSION

The Board finds that appellant may not receive a schedule award for her injury-related emotional condition.

⁵ 5 U.S.C. § 8101(19).

⁶ *Brent A. Barnes*, 56 ECAB 336 (2005).

⁷ Docket No. 10-174 (issued July 2, 2010).

⁸ *See also Jacqueline S. Harris*, 54 ECAB (2002) (finding the claimant was not entitled to a schedule award for an emotional condition).

ORDER

IT IS HEREBY ORDERED THAT the July 21, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 25, 2012
Washington, DC

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

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

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