

accepted appellant's claim for fractured right foot. Appellant received wage-loss compensation benefits.

On October 25, 2010 appellant filed a claim for a schedule award.

By letter dated November 10, 2010, OWCP requested that Treating Physician Dr. Sandy Bidner, an orthopedic surgeon, provide an opinion regarding whether appellant was entitled to an impairment rating and, if so, the percentage of impairment with an explanation of how the calculation was derived, utilizing the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, (6th ed. 2009) (hereinafter A.M.A., *Guides*). No report was received from Dr. Bidner.

On January 25, 2011 OWCP denied appellant's claim for a schedule award. It found that the medical evidence did not demonstrate a measurable impairment and the requirements were not met for entitlement to a schedule award.

On January 31, 2011 appellant's representative requested a telephonic hearing, which was held on May 10, 2011. During the hearing, he requested 30 days to get appellant examined. No additional evidence was received.

By decision dated July 13, 2011, an OWCP hearing representative affirmed the January 25, 2011 decision.

LEGAL PRECEDENT

Section 8107 of FECA sets forth the number of weeks of compensation to be paid for the permanent loss of use of specified members, functions and organs of the body.³ FECA, however, does not specify the manner by which the percentage loss of a member, function or organ shall be determined. To ensure consistent results and equal justice for all claimants under the law, good administrative practice requires the use of uniform standards applicable to all claimants.⁴ The A.M.A., *Guides* has been adopted by the implementing regulations as the appropriate standard for evaluating schedule losses.⁵ For decisions issued after May 1, 2009, the sixth edition will be used.⁶

The burden is upon the employee to establish that he or she is entitled to schedule award compensation.⁷

ANALYSIS

The evidence of record is insufficient to establish that appellant is entitled to a schedule award in accordance with the sixth edition of the A.M.A., *Guides*.

³ 5 U.S.C. § 8107.

⁴ *Ausbon N. Johnson*, 50 ECAB 304, 311 (1999).

⁵ 20 C.F.R. § 10.404.

⁶ FECA Bulletin No. 09-03 (issued March 15, 2009).

⁷ *D.H.*, 58 ECAB 358 (2007).

Appellant did not submit any medical evidence to support a claim for a schedule award. In a letter dated November 10, 2010, OWCP requested that appellant's treating physician provide an opinion on impairment in accordance with the sixth edition of the A.M.A., *Guides*. This letter was also sent to appellant. However, no report was received. During the telephonic hearing, appellant's representative requested additional time to obtain a medical examination and submit additional medical evidence. However, no evidence was received. As noted, a claimant has the burden of proof to establish entitlement to a schedule award.

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 July 13, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 15, 2012
Washington, DC

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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