

January 11, 2001 and pursuant to that claim had received a schedule award on June 27, 2002, for a seven percent impairment to his right arm. A June 20, 2005 magnetic resonance imaging (MRI) scan report stated that appellant had fallen on ice in 2001 and had a rotator cuff injury. The report indicated that the MRI scan revealed a partial tear of the supraspinatus tendon.

OWCP accepted the claim for a right rotator cuff sprain of the shoulder. Appellant underwent right shoulder arthroscopic surgery on February 25, 2011.

On August 12, 2011 appellant submitted a claim for compensation (Form CA-7) indicating that he was claiming a schedule award. He submitted an August 4, 2011 report from Dr. Thomas Greenwald, an orthopedic surgeon, stating that appellant had recovered from an infection following the rotator cuff surgery. Dr. Greenwald stated that appellant had reached maximum medical improvement, with near full range of motion and mild external rotation strength deficit. He indicated that appellant could return to work.

By letter dated August 16, 2001, OWCP requested appellant submit an additional report from Dr. Greenwald with respect to a permanent impairment under the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*). The record contains a copy of the letter with a note from Dr. Greenwald stating that appellant had a two percent arm impairment under the fifth edition of the A.M.A., *Guides*.

In a report dated December 11, 2011, an OWCP medical adviser opined that appellant's right shoulder impairment under the sixth edition of the A.M.A., *Guides* should be determined under the shoulder regional grid at Table 15-5. He stated that the default impairment for a rotator cuff full thickness tear was five percent. The medical adviser found that there was no adjustment to the default value, applying the grade modifiers for physical examination, functional history and clinical studies. He noted that appellant had previously received a schedule award for a seven percent impairment to the right shoulder and therefore he was not entitled to additional schedule award.

By decision dated December 22, 2011, OWCP denied the claim for an additional schedule award. It found that appellant had previously received a schedule award for the right shoulder of seven percent and as his current impairment was less than seven percent he was not entitled to an additional award.

LEGAL PRECEDENT

Section 8107 of FECA provides that, if there is permanent disability involving the loss or loss of use of a member or function of the body, the claimant is entitled to a schedule award for the permanent impairment of the scheduled member or function.² Neither, FECA nor the regulations specify the manner in which the percentage of impairment for a schedule award shall be determined. For consistent results and to ensure equal justice for all claimants OWCP has

² 5 U.S.C. § 8107. This section enumerates specific members or functions of the body for which a schedule award is payable and the maximum number of weeks of compensation to be paid; additional members of the body are found at 20 C.F.R. § 10.404(a).

adopted the A.M.A., *Guides* as the uniform standard applicable to all claimants.³ OWCP's procedures provide that, effective May 1, 2009, all schedule awards are to be calculated under the sixth edition of the A.M.A., *Guides*.⁴ Any recalculations of previous awards which result from hearings or reconsideration decisions issued on or after May 1, 2009, should be based on the sixth edition of the A.M.A. *Guides*. A claimant who has received a schedule award calculated under a previous edition and who claims an increased award will receive a calculation according to the sixth edition for any decision issued on or after May 1, 2009.⁵

With respect to shoulder impairment, the A.M.A., *Guides* provides a regional grid at Table 15-5.⁶ The class of impairment (CDX) is determined based on specific diagnosis and then the default value for the identified CDX is determined. The default value (Grade C) may be adjusted by using grade modifiers for Functional History (GMFH) Table 15-7, Physical Examination (GMPE) Table 15-8 and Clinical Studies (GMCS) Table 15-9. The adjustment formula is (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX).⁷

ANALYSIS

In the present case, an attending physician, Dr. Greenwald, provided a brief opinion that appellant had a two percent arm impairment under the fifth edition of the A.M.A., *Guides*. This opinion is of diminished probative value as it did not refer to the sixth edition of the A.M.A., *Guides* and provided no accompanying explanation or medical rationale.

The medical evidence was reviewed by an OWCP medical adviser, who provided an opinion under the sixth edition of the A.M.A., *Guides*. The medical adviser noted that the diagnosis with the highest impairment rating would be a full thickness rotator cuff tear, which under Table 15-5 has a Grade C (default) arm impairment of five percent.⁸ As noted above, the default value may be adjusted using the adjustment formula for functional history, physical examination and clinical studies. Based on the findings of Dr. Greenwald, the medical adviser applied a grade modifier 0 for functional history, 1 for physical examination and 2 for clinical studies.⁹ Applying the net adjustment formula, there is no adjustment from the five percent default impairment for the right arm.

³ A. George Lampo, 45 ECAB 441 (1994).

⁴ FECA Bulletin No. 09-03 (March 15, 2009); Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700 (January 2010).

⁵ *Id.*

⁶ A.M.A., *Guides* 401, Table 15-5.

⁷ The net adjustment is up to +2 (Grade E) or -2 (Grade A).

⁸ A.M.A., *Guides* 403, Table 15-5. The diagnosis is Class (CDX) 1 for residual loss, functional with normal motion.

⁹ *Id.* 406-411, Table 15-7 to Table 15-9.

The medical adviser noted that appellant had previously received a schedule award based on a permanent impairment to the right shoulder of seven percent. When a current impairment duplicates a prior impairment, the schedule award benefits are reduced by the period of compensation paid under the schedule award for an earlier injury.¹⁰ Since the current impairment for the right shoulder was five percent, there was no basis for an additional award. The Board finds that OWCP properly denied the request for an additional schedule award in this case.

On appeal, appellant stated that Dr. Greenwald did not provide opinions under the sixth edition of the A.M.A., *Guides* and he had asked OWCP for an independent evaluation. The Board notes that it is appellant's burden of proof to submit the necessary evidence to establish a schedule award.¹¹ For the reasons noted above, the evidence of record was not sufficient to establish an increased impairment. Appellant may at any time submit medical evidence showing progression of an employment-related condition resulting in increased impairment and request an increased schedule award.¹²

CONCLUSION

The Board finds that appellant has not established entitlement to an additional schedule award.

¹⁰ T.S. Docket No. 09-1308 (issued December 22, 2009); 20 C.F.R. § 10.404(c).

¹¹ *Edward W. Spohr*, 54 ECAB 806, 810 (2003).

¹² *See Linda T. Brown*, 51 ECAB 115 (1999).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated December 22, 2011 is affirmed.

Issued: September 19, 2012
Washington, DC

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

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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