

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

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**L.H., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Sarasota, FL, Employer**

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**Docket No. 13-280  
Issued: April 1, 2013**

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

COLLEEN DUFFY KIKO, Judge  
ALEC J. KOROMILAS, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On November 19, 2012 appellant filed a timely appeal from a June 22, 2012 merit decision of the Office of Workers' Compensation Programs (OWCP). 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 met his burden of proof to establish that he has a permanent impairment caused by the accepted conditions.

On appeal appellant asserts that he submitted medical evidence.

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

## **FACTUAL HISTORY**

On July 17, 1995 appellant, then a 40-year-old distribution clerk, filed a traumatic injury claim alleging that he injured his left knee throwing parcels the previous day. He did not stop work. OWCP accepted that appellant sustained an employment-related knee sprain and torn medial meniscus. On February 20, 1997 Dr. Charles W. Rush, a Board-certified orthopedic surgeon, performed arthroscopic repair of the left knee. Appellant was off work from February 20 through March 8, 1997 and received appropriate compensation. He returned to full duty and his request for leave buyback was approved. On March 2, 2004 appellant filed a recurrence claim that was denied by OWCP in a September 16, 2004 decision.

On May 2, 2012 appellant filed a schedule award claim.<sup>2</sup> By letter dated May 17, 2012, OWCP informed him of the type medical evidence needed to support his claim, which should include a rating in accordance with the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (hereinafter A.M.A., *Guides*).<sup>3</sup> In a report dated June 19, 2012, an OWCP medical adviser stated that there was not enough information in the record to permit an impairment rating in accordance with the A.M.A., *Guides*. He further indicated that a date of maximum medical improvement was needed. No response was received from appellant.

By decision dated June 22, 2012, OWCP denied the claim because the record did not contain a narrative medical report outlining appellant's current condition and whether he had a permanent impairment as a result of the employment injury. It noted that appellant had not responded to the May 17, 2012 letter.

## **LEGAL PRECEDENT**

The schedule award provision of FECA,<sup>4</sup> and its implementing federal regulations,<sup>5</sup> set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss, or loss of use, of scheduled members or functions of the body. However, FECA does not specify the manner in which the percentage of loss shall be determined. For consistent results and to ensure equal justice under the law for all claimants, OWCP has adopted the A.M.A., *Guides* as the uniform standard applicable to all claimants.<sup>6</sup> For decisions after

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<sup>2</sup> The employing establishment indicated that at that time appellant was working four hours per day due to an injury under a separate claim.

<sup>3</sup> A.M.A., *Guides to the Evaluation of Permanent Impairment* (6<sup>th</sup> ed. 2008).

<sup>4</sup> 5 U.S.C. § 8107.

<sup>5</sup> 20 C.F.R. § 10.404.

<sup>6</sup> *Id.* at § 10.404(a).

February 1, 2001, the fifth edition of the A.M.A., *Guides* is used to calculate schedule awards.<sup>7</sup> For decisions issued after May 1, 2009, the sixth edition will be used.<sup>8</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>9</sup> Under the sixth edition, for lower extremity impairments, the evaluator identifies the impairment class for the diagnosed condition (CDX), which is then adjusted by grade modifiers based on Functional History (GMFH), Physical Examination (GMPE) and Clinical Studies (GMCS).<sup>10</sup> The net adjustment formula is (GMFH-CDX) + (GMPE-CDX) + (GMCS-CDX).<sup>11</sup> Under Chapter 2.3, evaluators are directed to provide reasons for their impairment rating choices, including choices of diagnoses from regional grids and calculations of modifier scores.<sup>12</sup>

### ANALYSIS

The Board finds that appellant has not met his burden of proof to establish entitlement to a schedule award for his accepted left knee condition.

The A.M.A., *Guides* has been adopted as the uniform standard applicable to all claimants of a schedule award.<sup>13</sup> Before the A.M.A., *Guides* can be utilized, however, a description of the claimant's impairment must be obtained from his or her physician.<sup>14</sup> The description must be in sufficient detail so that the claims examiner and others reviewing the file will be able to clearly visualize the impairment with its resulting restrictions and limitations.<sup>15</sup> In this case, by letter dated May 17, 2012, OWCP informed appellant of the type medical evidence needed to support his claim. Appellant did not respond.

Appellant stated on appeal that medical information was forwarded to OWCP. The record before the Board contains no recent medical evidence. The last medical evidence of record is a March 7, 1997 attending physician's report in which Dr. Rush indicated that appellant could return to full duty.

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<sup>7</sup> Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700, Exhibit 4 (June 2003).

<sup>8</sup> FECA Bulletin No. 09-03 (issued March 15, 2009).

<sup>9</sup> A.M.A., *Guides*, *supra* note 3 at 3, section 1.3, "The International Classification of Functioning, Disability and Health (ICF): A Contemporary Model of Disablement."

<sup>10</sup> *Id.* at 494-531.

<sup>11</sup> *Id.* at 521.

<sup>12</sup> *Id.* at 23-28.

<sup>13</sup> 20 C.F.R. § 10.404(a).

<sup>14</sup> A.A., 59 ECAB 726 (2008).

<sup>15</sup> *Id.*

Without the necessary reasoned medical opinion evidence establishing the type and extent of appellant's impairment correlated with the A.M.A., *Guides* and explaining the causal relationship between these findings and the accepted employment injury, appellant has failed to establish that he sustained a permanent impairment as a result of his accepted conditions.<sup>16</sup>

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 did not establish that he was entitled to a schedule award for the accepted left knee conditions.

**ORDER**

**IT IS HEREBY ORDERED THAT** the June 22, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 1, 2013  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board

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

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<sup>16</sup> See *S.B.*, Docket No. 12-1489 (issued January 25, 2013).