

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

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C.B., Appellant )

and )

U.S. POSTAL SERVICE, POST OFFICE, )  
Pomona, CA, Employer )

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**Docket No. 13-1139  
Issued: August 5, 2013**

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

COLLEEN DUFFY KIKO, Judge  
PATRICIA HOWARD FITZGERALD, Judge  
ALEC J. KOROMILAS, Alternate Judge

**JURISDICTION**

On April 10, 2013 appellant filed a timely appeal from the February 20, 2013 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 to review the merits of this schedule award case.

**ISSUE**

The issue is whether appellant has more than a 2 percent impairment of her left upper extremity or more than a 10 percent impairment of her right upper extremity resulting from the accepted bilateral carpal tunnel syndrome.

**FACTUAL HISTORY**

On March 28, 1995 appellant, a 34-year-old letter carrier, filed an occupational disease claim alleging that her bilateral carpal tunnel syndrome was the result of her federal

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

employment. She explained that she experienced problems with both hands for the past couple of years. Appellant's hands hurt and were numb when she woke up in the mornings and at times during the day. "I believe that this problem is work related in that my job requires me to use my hands in a constant execution and repetitive motion in the preparation of mail for delivery."

OWCP accepted appellant's claim for right carpal tunnel syndrome. Appellant underwent a right carpal tunnel release on March 16, 1995.

On September 15, 1997 OWCP issued a schedule award for a 10 percent impairment of appellant's right upper extremity due to carpal tunnel syndrome. The total amount of the award was \$11,754.60, which OWCP paid with a lump-sum check dated September 19, 1997.

On September 2, 1998 an OWCP hearing representative affirmed the 10 percent schedule award for appellant's right upper extremity.

Appellant underwent a second right carpal tunnel release on November 2, 1999.

In a decision dated February 28, 2001, OWCP denied an additional schedule award for the right upper extremity. It noted that appellant had a four percent impairment of her right upper extremity after surgery, which was less than the 10 percent impairment for which she previously received a schedule award.

It appears that OWCP expanded its acceptance of appellant's claim to include left carpal tunnel syndrome. It authorized a left carpal tunnel release on September 11, 2006.

On August 9, 2010 appellant filed a claim for a schedule award.

Dr. Lincoln S. Yee, the Board-certified orthopedic surgeon who performed the second surgery on appellant's right wrist, examined appellant's wrists on May 5, 2010. He found appellant to be permanent and stationary. Dr. Yee reported: "Issues of impairment remain unchanged."

An OWCP medical adviser reviewed the medical record and determined that appellant had a two percent impairment of the right and left upper extremities for mild carpal tunnel symptoms status post carpal tunnel release. He noted that appellant had a 10 percent impairment of her right upper extremity as a result of a March 28, 1996 right shoulder injury under another case file.<sup>2</sup> Combined with the two percent impairment for residual right carpal tunnel syndrome, this gave appellant a total right upper extremity impairment of 12 percent.

On July 13, 2011 OWCP issued a schedule award for a two percent impairment of appellant's left upper extremity. Noting that it had previously issued a schedule award for a 10 percent impairment of her right upper extremity, OWCP found that her current 12 percent rating for that extremity entitled her to an additional schedule award of two percent.

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<sup>2</sup> OWCP File No. xxxxxx792. This case file is not before the Board in the present appeal.

On October 1, 2012 appellant again filed a claim for a schedule award. Dr. Yee examined her on August 20, 2012 and found a positive Tinel's sign bilaterally and positive Phalen's test on the right, negative on the left. He diagnosed right wrist chronic residual carpal tunnel syndrome and left subclinical residual carpal tunnel syndrome with resolved de Quervain's syndrome. Dr. Yee noted that appellant's condition was chronic and persistent and relatively unchanged in regards to her residual carpal tunnel syndrome. "Issues of impairment remain unchanged."

OWCP's medical adviser reviewed appellant's medical record and found there was no significant change and no increase in appellant's impairment resulting from bilateral carpal tunnel syndrome.

By decision dated February 20, 2013, OWCP denied an additional schedule award. It found that the medical evidence did not support an increase in the impairment already compensated.

On appeal, appellant argues that she has not received a 10 percent schedule award for her right carpal tunnel syndrome.

### **LEGAL PRECEDENT**

The schedule award provision of FECA<sup>3</sup> and the implementing regulations<sup>4</sup> set forth the number of weeks of compensation payable to employees who sustain permanent impairment from loss or loss of use of scheduled members or functions of the body. FECA, however, does not specify the manner in which the percentage of loss shall be determined. The method used in making such a determination is a matter that rests within the sound discretion of OWCP.<sup>5</sup>

For consistent results and to ensure equal justice under the law to all claimants, good administrative practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants. OWCP has adopted the American Medical Association, *Guides to the Evaluation of Permanent Impairment* as the appropriate standard for evaluating schedule losses.<sup>6</sup> As of May 1, 2009, the sixth edition of the A.M.A., *Guides* is used to calculate schedule awards.<sup>7</sup>

### **ANALYSIS**

The record shows that OWCP paid appellant a schedule award in 1997 for a 10 percent impairment of her right upper extremity due to the accepted right carpal tunnel syndrome. In

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<sup>3</sup> 5 U.S.C. § 8107.

<sup>4</sup> 20 C.F.R. § 10.404.

<sup>5</sup> *Linda R. Sherman*, 56 ECAB 127 (2004); *Danniel C. Goings*, 37 ECAB 781 (1986).

<sup>6</sup> *Supra* note 4.

<sup>7</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6.6a (January 2010).

2011 it paid her a schedule award for a two percent impairment of her left upper extremity due to the accepted left carpal tunnel syndrome. As appellant filed a claim for an additional schedule award in 2012, she has the burden to establish more than a 10 percent impairment of her right upper extremity or more than a 2 percent impairment of her left upper extremity due to her work-related carpal tunnel syndrome.<sup>8</sup>

The medical opinion evidence does not establish that appellant is entitled to an additional award. Appellant has not submitted an impairment evaluation under the sixth edition of the A.M.A., *Guides*. Dr. Yee, the orthopedic surgeon, found on October 1, 2012 that appellant's condition was relatively unchanged in regards to her residual carpal tunnel syndrome. He advised: "Issues of impairment remain unchanged." An OWCP medical adviser reviewed appellant's medical record and found no significant change and no increase in her impairment resulting from bilateral carpal tunnel syndrome.

Accordingly, the Board finds that appellant has not met her burden to establish that she is entitled to an additional schedule award for her bilateral carpal tunnel syndrome. The Board will affirm OWCP's February 20, 2013 decision.

On appeal, appellant argues that she never received the 10 percent schedule award for her right carpal tunnel syndrome. The record establishes, however, that OWCP issued her a check dated September 19, 1997 in the amount of \$11,754.60. To receive any additional schedule award for her right carpal tunnel syndrome, appellant would have to establish that her impairment has increased to more than 10 percent. The medical evidence indicates that her impairment has improved following two surgeries such that she is presently left with mild residual symptoms and a two percent impairment. This does not entitle her to additional compensation.

### **CONCLUSION**

The Board finds that appellant has not shown that she has more than a 2 percent impairment of her left upper extremity or more than a 10 percent impairment of her right upper extremity resulting from the accepted bilateral carpal tunnel syndrome. Appellant is therefore not entitled to an additional schedule award.

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<sup>8</sup> Although OWCP paid appellant a schedule award for an additional two percent impairment of her right upper extremity in 2011, OWCP's medical adviser made clear that the impairment due to carpal tunnel syndrome was only two percent for mild symptoms after surgery. This was less than her 10 percent rating in 1997, for which she received a schedule award, and less than her 4 percent rating following her second surgery in 1999.

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 20, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 5, 2013  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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