



contusion, a left shoulder strain, a concussion, an aggravation of migraines, an aggravation of lumbalgia and a consequential injury of a pelvic prolapse. Appellant stopped work on December 16, 2000 and returned to limited-duty employment on April 29, 2002. On June 25, 2003 she elected disability retirement from the employing establishment.

On July 13, 2012 appellant filed a claim for a schedule award. By letter dated July 31, 2012, OWCP requested that Dr. William Daniels, an attending Board-certified orthopedic surgeon, submit an impairment evaluation utilizing the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (6<sup>th</sup> ed. 2009) (A.M.A., *Guides*).

In a report dated August 20, 2012, Dr. Daniels discussed appellant's complaints of pain in the low back, left hip, shoulder and ankle. He measured range of motion of the upper and lower extremities and diagnosed ankle sprain, a hip contusion, a sprain of the shoulder and upper arm, concussion, migraine and lumbago. Citing the tables and pages of the sixth edition of the A.M.A., *Guides*, Dr. Daniels found that appellant had a three percent left upper extremity impairment due to her shoulder contusion, a three percent left lower impairment due to her hip contusion and a one percent left lower extremity impairment due to her ankle strain. He stated that he did not consider appellant's low back or thoracic back pain in his impairment rating but instead limited his evaluation to the shoulder, hip and ankle.

By decision dated October 1, 2012, OWCP denied appellant's claim for a schedule award. It found that Dr. Daniels did not sufficiently explain how the impairment of her upper and lower extremities was causally related to her December 12, 2000 employment injury.

On October 8, 2012 appellant, through her attorney, requested a telephone hearing before an OWCP hearing representative. At the telephone hearing, held on January 16, 2013, counsel asserted that OWCP had accepted her conditions as employment related and thus Dr. Daniels did not have to address causation.

By decision dated March 28, 2013, OWCP's hearing representative affirmed the October 1, 2012 decision. She found that Dr. Daniels did not supply adequate rationale to show that the rated impairment resulted from the employment injury. The hearing representative noted that appellant had not received care for her ankle, hip or shoulder since 2002.

### **LEGAL PRECEDENT**

The schedule award provision of FECA,<sup>2</sup> and its implementing federal regulations,<sup>3</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. 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

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<sup>2</sup> *Id.* at § 8107.

<sup>3</sup> 20 C.F.R. § 10.404.

A.M.A., *Guides* as the uniform standard applicable to all claimants.<sup>4</sup> As of May 1, 2009, the sixth edition of the A.M.A., *Guides* is used to calculate schedule awards.<sup>5</sup>

OWCP procedures provide that, after obtaining all necessary medical evidence, the file should be routed to OWCP's medical adviser for an opinion concerning the nature and percentage of impairment in accordance with the A.M.A., *Guides*, with OWCP's medical adviser providing rationale for the percentage of impairment specified.<sup>6</sup>

### ANALYSIS

OWCP accepted that appellant sustained a left ankle sprain, a left hip contusion, a left shoulder strain, a concussion, an aggravation of migraines, an aggravation of lumbalgia and a consequential injury of a pelvic prolapse due to a December 12, 2000 employment injury. On July 13, 2012 she filed a claim for a schedule award. In an impairment evaluation dated August 20, 2012, Dr. Daniels diagnosed ankle sprain, a hip contusion, a sprain of the shoulder and upper arm, concussion, migraine and lumbago. He reviewed appellant's complaints of continued back, left hip, left shoulder and left ankle pain. Dr. Daniels applied the A.M.A., *Guides* and concluded that she had a three percent left upper extremity impairment due to her shoulder sprain, a three percent left lower impairment due to her left hip contusion and a one percent left lower extremity impairment due to her ankle sprain.

OWCP procedures provide that, after obtaining all necessary medical evidence, the file should be routed to an OWCP medical adviser for an opinion concerning the percentage of impairment using the A.M.A., *Guides*.<sup>7</sup> Dr. Daniels' report was not forwarded to an OWCP medical adviser for review and thus it did not comply with its procedures. For this reason, the Board will set aside the March 28, 2013 decision and remand the case to OWCP. On remand, OWCP should have a medical adviser evaluate Dr. Daniels' August 20, 2012 report and provide an opinion concerning the extent of appellant's impairment in accordance with the A.M.A., *Guides*. After such further development as may be necessary, it shall render a *de novo* decision.

### CONCLUSION

The Board finds that the case is not in posture for decision.

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<sup>4</sup> *Id.* at § 10.404(a).

<sup>5</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.5(a) (February 2013); *see also* Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 and Exhibit 1 (January 2010).

<sup>6</sup> *See* Federal (FECA) Procedure Manual, Part 2 -- *id.* at Chapter 2.808.6(f) (February 2013); *Tommy R. Martin*, 56 ECAB 273 (2005).

<sup>7</sup> *Id.*

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 28, 2013 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this opinion of the Board.

Issued: December 5, 2013  
Washington, DC

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

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

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