

OWCP accepted the claim for a right wrist sprain. Appellant underwent right wrist arthroscopic surgery on December 27, 2010. The attending orthopedic surgeon, Dr. Garth Smith, diagnosed right wrist triangular fibrocartilaginous complex (TFCC) tear, right wrist synovitis and right carpal tunnel syndrome.

Appellant returned to work in a light-duty position on March 17, 2011. In a report dated August 19, 2011, Dr. Smith stated that appellant was still having some diffuse symptoms on the ulnar aspect of the wrist that are aggravated with heavy lifting and heavy rotational activities. He opined that she had reached maximum medical improvement and final impairment rating should be considered.

On April 5, 2012 appellant filed a claim (Form CA-7) for a schedule award. By letter dated April 10, 2012, OWCP advised that appellant needed to submit medical evidence that included a detailed description of a permanent impairment and a calculation as to the degree of impairment pursuant to the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*). Appellant was advised that, if evidence was not received within 30 days, a decision would be issued based on the evidence of record.

In a report dated April 13, 2012, a nurse practitioner provided results on examination. The nurse practitioner stated that appellant would need to follow up with Dr. Smith for a disability rating.

In a decision dated May 21, 2012, OWCP found that appellant was not entitled to a schedule award under 5 U.S.C. § 8107. It determined that the medical evidence did not establish a permanent impairment.

LEGAL PRECEDENT

The schedule award provision of FECA² and its implementing regulations³ 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 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.⁴ The A.M.A., *Guides* has been adopted by the implementing regulations as the appropriate standard for evaluating schedule losses.⁵ For schedule awards after May 1, 2009, the impairment is evaluated under the sixth edition.⁶

² 5 U.S.C. § 8107.

³ 20 C.F.R. § 10.404 (1999).

⁴ See *Ronald R. Kraynak*, 53 ECAB 130 (2001); *August M. Buffa*, 12 ECAB 324 (1961).

⁵ 20 C.F.R. § 10.404 (1999).

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

OWCP procedures indicate that medical evidence for a schedule award should include an attending physician's detailed report with a description of the impairment, physical findings, functional history, clinical studies and an opinion as to impairment under the A.M.A., *Guides*.⁷

ANALYSIS

As noted, the medical evidence necessary to establish a schedule award under 5 U.S.C. § 8107 requires a detailed medical report from the attending physician discussing the physical findings, the impairment and the percentage calculated under the A.M.A., *Guides*. Appellant did not submit any probative medical evidence to establish permanent impairment of his right arm. The April 13, 2012 report from the nurse practitioner is of no probative medical value as a nurse practitioner is not a physician under FECA.⁸ The attending physician, Dr. Smith, did not provide any opinion with respect to permanent impairment.

On appeal, appellant submitted an additional medical report. The Board's jurisdiction is limited to the evidence that was before OWCP at the time of the May 21, 2012 decision on appeal.⁹ The Board cannot consider new evidence on appeal. Based on the evidence before OWCP at the time of the May 21, 2012 decision, appellant did not establish entitlement to a schedule award pursuant to 5 U.S.C. § 8107.

Appellant may request a schedule award before OWCP based on medical evidence showing progression of an employment-related condition resulting in permanent impairment.

CONCLUSION

The Board finds that appellant has not established a permanent impairment to a scheduled member or function of the body under 5 U.S.C. § 8107.

⁷ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6(c) (January 2010).

⁸ See A.A., Docket No. 12-1116 (issued November 8, 2012).

⁹ 20 C.F.R. § 501.2(c)(1).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated May 21, 2012 is affirmed.

Issued: January 29, 2013
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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