

duties. By decision dated April 17, 2011, OWCP accepted his claim for right carpal tunnel syndrome.² Appellant was placed on a limited-duty assignment.

On May 3, 2012 appellant filed a claim for a schedule award. By letter dated May 10, 2012, OWCP requested that he submit an impairment evaluation from his attending physician in accordance with the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*) (6th ed. 2009). It provided him 30 days to submit the requested impairment evaluation. No evidence was received.

By decision dated June 18, 2012, OWCP denied appellant's claim for a schedule award.³ It found that the evidence of record did not establish permanent impairment.

LEGAL PRECEDENT

The schedule award provision of FECA and its implementing regulations 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.⁴ 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. The A.M.A., *Guides* has been adopted by the implementing regulations as the appropriate standard for evaluating schedule losses.⁵

It is the claimant's burden to establish that he or she sustained a permanent impairment of a scheduled member or function as a result of any employment injury.⁶ OWCP's procedures provide that, to support a schedule award, the file must contain competent medical evidence which shows that the impairment has reached a permanent and fixed state and indicates the date on which this occurred (date of maximum medical improvement), describes the impairment in sufficient detail so that it can be visualized on review and computes the percentage of impairment in accordance with the A.M.A., *Guides*.⁷

² On February 12, 2004 appellant filed a recurrence claim (Form CA-2a) alleging that he sustained a recurrence of disability on February 9, 2004. By decision dated April 14, 2004, OWCP denied his claim for recurrence.

³ The Board notes that appellant submitted additional evidence after OWCP rendered its June 18, 2012 decision. The Board's jurisdiction is limited to reviewing the evidence that was before OWCP at the time of its final decision. Therefore, this additional evidence cannot be considered by the Board. 20 C.F.R. § 501.2(c)(1); *Dennis E. Maddy*, 47 ECAB 259 (1995); *James C. Campbell*, 5 ECAB 35, 36 n.2 (1952). Appellant may submit this evidence to OWCP, together with a formal request for reconsideration, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. § 10.606(b)(2).

⁴ 5 U.S.C. § 8107; 20 C.F.R. § 10.404.

⁵ *K.H.*, Docket No. 09-341 (issued December 30, 2011). For decisions issued after May 1, 2009, the sixth edition will be applied. *B.M.*, Docket No. 09-2231 (issued May 14, 2010).

⁶ *Tammy L. Meehan*, 53 ECAB 229 (2001).

⁷ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6(b) (August 2002).

ANALYSIS

OWCP accepted appellant's claim for right carpal tunnel syndrome due to a February 21, 2001 work-related injury. On May 3, 2012 appellant filed a claim for a schedule award. By decision dated June 18, 2012, OWCP denied his schedule award claim after finding that he had not submitted any evidence to establish that he sustained a permanent impairment resulting from his work injury.

Appellant has not submitted sufficient evidence to establish that, as a result of his employment injury, he sustained permanent impairment to a scheduled member. By letter dated May 10, 2012, OWCP informed him of the evidence necessary to establish his schedule award claim and specifically requested that he submit an impairment evaluation from an attending physician in accordance with the sixth edition of the A.M.A., *Guides*. Appellant did not respond. It is his burden of proof to establish that he sustained a permanent impairment of a scheduled member as a result of an employment injury.⁸ The medical evidence must include a description of any physical impairment in sufficient detail so that the claims examiner and others reviewing the file would be able to clearly visualize the impairment with its resulting restrictions and limitations.⁹ Appellant did not submit such evidence and thus, OWCP properly denied his schedule award claim.¹⁰

On appeal appellant argued that he submitted the required medical evidence but that it was not received prior to OWCP's June 18, 2012 decision. He further stated that his physician's office manager requested an extension from OWCP for the 30-day deadline. OWCP, however, did not receive the request until August 13, 2012, subsequent to the June 18, 2012 decision denying appellant's schedule award. As noted, evidence submitted by appellant after the June 18, 2012 decision cannot be considered by the Board. The Board's jurisdiction is limited to reviewing the evidence that was before OWCP at the time of its decision.¹¹ Appellant may resubmit this evidence to OWCP and request reconsideration within one year of the Board's merit decision pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.606 and 10.607. The record before the Board does not contain evidence establishing permanent impairment and he failed to meet his burden of proof.¹²

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.

⁸ See *supra* note 6.

⁹ See *A.L.*, Docket No. 08-1730 (issued March 16, 2009).

¹⁰ *V.W.*, Docket No. 09-2026 (issued February 16, 2010); *L.F.*, Docket No. 10-343 (issued November 29, 2010).

¹¹ 20 C.F.R. § 501.2(c)(1).

¹² See *supra* note 6.

CONCLUSION

The Board finds that appellant has not established that he is entitled to a schedule award.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decision dated June 18, 2012 is affirmed.

Issued: May 8, 2013
Washington, DC

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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

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