

On appeal, appellant contends that she is entitled to an increased schedule award for her accepted bilateral carpal tunnel syndrome as she underwent additional surgeries in 2011.

FACTUAL HISTORY

OWCP accepted that appellant, then a 43-year-old patient services assistant, developed bilateral carpal tunnel syndrome due to factors of her federal employment. She underwent a right carpal tunnel release on March 27, 2001 and a left carpal tunnel release on May 22, 2001.

By decision dated May 25, 2004, OWCP issued schedule awards for five percent permanent impairment of the right and left upper extremities. The awards ran for a total of 31.2 weeks from December 22, 2003 to July 27, 2004.

OWCP authorized carpal tunnel surgery and appellant underwent a second right carpal tunnel release on September 12, 2011. A second left carpal tunnel release was performed on October 25, 2011.

Appellant returned to light-duty work on December 9, 2011 based on a December 7, 2011 report from Dr. Paul McCombs, a Board-certified neurosurgeon and appellant's attending physician, who released her to work with the restrictions of telephone work only, other office tasks such as writing and no keyboard work.³ She returned to full duty on January 17, 2012 based on a January 11, 2012 report from Dr. McCombs, who recommended the following restrictions: no lifting greater than 10 pounds; intermittent performance of simple grasping for 2 to 3 hours per day; intermittent performance of fine manipulation (including keyboarding in 15 minute intervals) for 2 to 3 hours per day; getting up and moving around every 20 minutes as needed.

On April 5, 2013 appellant filed a claim for a schedule award.

In an April 16, 2013 report, Dr. H.P. Hogshead, an OWCP medical adviser, reviewed the medical evidence. He found that there was no significant change or increase in impairment resulting from the recent surgeries. Dr. Hogshead noted the absence of any electrodiagnostic testing.

On May 16, 2013 Dr. McCombs opined that appellant had five percent permanent impairment of both upper extremities.

In a June 3, 2013 report, Dr. James W. Dyer, an OWCP medical adviser, reviewed the medical record. He found that there was no significant change in appellant's condition based on the report of Dr. McCombs. Dr. Dyer noted that appellant had previously received schedule awards for the period December 22, 2003 to July 27, 2004 for the same condition and an additional impairment was documented.

³ On December 21, 2011 OWCP issued a preliminary determination that an overpayment of compensation in the amount of \$750.10 arose because appellant received wage-loss compensation for total disability for the period December 9 to 17, 2011, after she returned to light-duty work on December 9, 2011.

By decision dated June 14, 2013, OWCP denied an additional schedule award for the right or left upper extremities. It found that the medical evidence did not support an increase in the impairment already compensated.

LEGAL PRECEDENT

The schedule award provisions of FECA⁴ provide for compensation to employees sustaining impairment from loss or loss of use of specified members of the body. FECA, however, does not specify the manner in which the percentage loss of a member shall be determined. The method used in making such determination is a matter which rests in the sound discretion of OWCP. For consistent results and to ensure equal justice, the Board has authorized the use of a single set of tables so that there may be uniform standards applicable to all claimants. The American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*) has been adopted by OWCP as a standard for evaluation of schedule losses and the Board has concurred in such adoption.⁵ For schedule awards after May 1, 2009, the impairment is evaluated under the sixth edition of the A.M.A., *Guides*, published in 2009.⁶

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).⁷ Under the sixth edition, the evaluator identifies the impairment class for the diagnosed condition (CDX), which is then adjusted by grade modifiers based on GMFH, GMPE and GMCS.⁸ The net adjustment formula is (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX). Evaluators are directed to provide reasons for their impairment rating choices, including the choices of diagnoses from regional grids and calculations of modifier scores.⁹

ANALYSIS

The record shows that OWCP paid appellant a schedule award in 2004 for five percent permanent impairment of the right upper extremity and five percent permanent impairment of the left upper extremity due to the accepted bilateral carpal tunnel syndrome. As appellant filed a claim for increased schedule awards in 2013, she has the burden to establish more than a five percent permanent impairment of her right upper extremity and/or more than five percent permanent impairment of her left upper extremity due to her employment-related condition.

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

⁵ See *Bernard A. Babcock, Jr.*, 52 ECAB 143 (2000). See also 5 U.S.C. § 8107.

⁶ See *D.T.*, Docket No. 12-503 (issued August 21, 2012); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6.6a (January 2010); see also Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 and Exhibit 1 (January 2010).

⁷ A.M.A., *Guides* (6th ed. 2009), p.3, section 1.3, *International Classification of Functioning, Disability and Health (ICF): A Contemporary Model of Disablement*.

⁸ *Id.* at 494-531.

⁹ See *R.V.*, Docket No. 10-1827 (issued April 1, 2011).

The Board finds that the medical opinion evidence does not establish that appellant has any increased impairment of either the right or left upper extremities. Appellant did not submit an impairment evaluation under the sixth edition of the A.M.A., *Guides*.¹⁰ Dr. McCombs, a Board-certified neurosurgeon and her attending physician, found on May 16, 2013 that appellant's condition was relatively unchanged due to residuals of bilateral carpal tunnel syndrome. He reiterated that she had five percent permanent impairment to each arm. On June 3, 2013 Dr. Dyer reviewed appellant's medical record and found no significant change to support an increase in impairment. The Board finds that appellant has not met her burden of proof to establish that she sustained greater impairment to either upper extremity. The Board will affirm OWCP's June 14, 2013 decision.

On appeal, appellant contends that she is entitled to increased schedule awards for her accepted bilateral carpal tunnel syndrome as she underwent additional surgeries in 2011. There is no probative medical evidence of record, in conformance with the sixth edition of the A.M.A., *Guides*, to establish that her surgeries resulted in greater permanent impairment. Appellant has not established that she is entitled to schedule awards greater than those previously received.¹¹

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 has not established that she sustained more than five percent permanent impairment of her right upper extremity or more than five percent permanent impairment of her left upper extremity, for which she received schedule awards.

¹⁰ See *C.B.*, Docket No. 13-1139 (issued August 5, 2013).

¹¹ FECA provides for reduction of compensation for subsequent injury to the same body member. It provides that schedule award compensation is reduced by the compensation paid for an earlier injury where the compensation in both cases are for impairment of the same member or function and where it is determined that the compensation for the later disability in whole or part would duplicate the compensation payable for the preexisting disability. 5 U.S.C. § 8108; 20 C.F.R. § 10.404(c).

ORDER

IT IS HEREBY ORDERED THAT the June 14, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 8, 2014
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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