



federal employment duties. On January 3, 2012 OWCP accepted the claim for aggravation of left wrist ganglion cyst. On November 13, 2013 appellant underwent a left wrist cyst excision which was approved by OWCP.

In a February 28, 2014 treatment note, Dr. Erika Gantt, a Board-certified orthopedic surgeon, reported that appellant was doing well following her left wrist cyst excision despite complaints of tightness and scar discomfort. According to the *North Carolina Industrial Rating Guide*, she opined that appellant had two percent permanent partial impairment to the left wrist as a result of the work-related surgery.

By letter dated April 21, 2014, counsel for appellant argued that Dr. Gantt's February 28, 2014 report provided an impairment rating which established her claim for a schedule award. On May 9, 2014 appellant filed a claim for a schedule award (Form CA-7).

By letter dated May 19, 2014, OWCP requested that appellant submit an impairment evaluation from her attending physician in accordance with the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (6<sup>th</sup> ed. 2009) (A.M.A., *Guides*). It provided her 30 days to submit the requested impairment evaluation. No additional evidence was received.

By decision dated June 24, 2014, OWCP denied appellant's claim for a schedule award.

### **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.<sup>2</sup> 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.<sup>3</sup>

It is the claimant's burden to establish that he or she has sustained a permanent impairment of the scheduled member or function as a result of any employment injury.<sup>4</sup> OWCP 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

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<sup>2</sup> *Id.* at § 8107; 20 C.F.R. § 10.404.

<sup>3</sup> *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).

<sup>4</sup> *Tammy L. Meehan*, 53 ECAB 229 (2001).

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*.<sup>5</sup>

### ANALYSIS

OWCP accepted appellant's claim for left wrist ganglion and cyst of synovium, tendon and bursae. On May 9, 2014 appellant filed a claim for a schedule award. By decision dated June 24, 2014, OWCP denied her schedule award claim finding that she did not submit an impairment evaluation to establish a permanent impairment resulting from her work injury.

The Board finds appellant has not submitted sufficient medical evidence to establish any permanent impairment to her left upper extremity due to her accepted condition.<sup>6</sup> In support of her claim, appellant submitted a February 28, 2014 report from Dr. Gantt, who opined that appellant had a two percent permanent impairment of the left upper extremity based on the *North Carolina Industrial Rating Guide*.

The Board notes that OWCP procedures provide that maximum medical improvement (MMI) must be reached before a schedule award can be made.<sup>7</sup> In this case, Dr. Gantt did not address whether appellant had reached MMI as a result of her accepted left wrist dorsal ganglion cyst following the November 13, 2013 surgery. Moreover, he failed to provide an impairment rating based on the sixth edition of the A.M.A., *Guides*.<sup>8</sup> Dr. Gantt failed to provide findings from physical examination which could establish a ratable permanent impairment in accordance with the sixth edition of the A.M.A., *Guides*.<sup>9</sup>

By letter dated May 19, 2014, OWCP informed appellant of the evidence necessary to establish her schedule award claim. It specifically requested that she submit an impairment evaluation from her attending physician in accordance with the sixth edition of the A.M.A., *Guides*. Appellant did not respond.

It is appellant's burden of proof to establish a permanent impairment of a scheduled member as a result of an employment injury.<sup>10</sup> 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

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<sup>5</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.5(b) (February 2013).

<sup>6</sup> *T.V.*, Docket No. 13-533 (issued June 19, 2013).

<sup>7</sup> FECA (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700 (January 2010).

<sup>8</sup> *Id.*

<sup>9</sup> *V.L.*, Docket No. 11-2048 (issued June 11, 2012).

<sup>10</sup> *See supra* note 4.

limitations.<sup>11</sup> Appellant did not submit such evidence. The Board finds that OWCP properly denied her schedule award claim.<sup>12</sup>

On appeal, appellant argues that OWCP's June 24, 2014 schedule award decision was in error and resubmitted Dr. Gantt's February 28, 2014 medical report.<sup>13</sup> As noted, this evidence is insufficient to establish her permanent impairment. There is no probative medical evidence of record, in conformance with the sixth edition of the A.M.A., *Guides*, establishing that appellant sustained any permanent impairment of the left arm as a result of her employment injury.<sup>14</sup>

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 is entitled to a schedule award.

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<sup>11</sup> See *A.L.*, Docket No. 08-1730 (issued March 16, 2009).

<sup>12</sup> *L.F.*, Docket No. 10-343 (issued November 29, 2010); *V.W.*, Docket No. 09-2026 (issued February 16, 2010).

<sup>13</sup> The Board notes that on February 4, 2014 appellant retained and authorized James M. Snow as counsel to represent her with respect to her OWCP claim. Appellant's appeal before the Board pertains to OWCP's June 24, 2014 decision only as she has not appealed or provided argument in support of the other OWCP decisions issued in her claim.

<sup>14</sup> *M.B.*, Docket No. 12-361 (issued September 10, 2012).

**ORDER**

**IT IS HEREBY ORDERED THAT** the Office of Workers' Compensation Programs' decision dated June 24, 2014 is affirmed.

Issued: November 25, 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