

**United States Department of Labor
Employees' Compensation Appeals Board**

P.C., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Washington, DC, Employer**

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**Docket No. 14-1274
Issued: September 19, 2014**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA HOWARD FITZGERALD, Judge
ALEC J. KOROMILAS, Alternate Judge

JURISDICTION

On May 12, 2014 appellant filed a timely appeal from the January 16, 2014 merit decision of the Office of Workers' Compensation Programs (OWCP), which denied an additional schedule award. Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant is entitled to an additional schedule award for the accepted bilateral carpal tunnel syndrome.

FACTUAL HISTORY

In 1993 appellant, a 39-year-old letter sorting machine operator, filed an occupational disease claim alleging that she sustained an injury in the performance of duty as a result of repetitive work duties. OWCP accepted her claim for bilateral carpal tunnel syndrome.

¹ 5 U.S.C. § 8101 *et seq.*

An OWCP medical adviser determined that appellant had a 35 percent impairment of her right upper extremity due to a moderate grade median nerve disorder at the right wrist. The medical adviser finds a 35 percent impairment on the left.

On March 13, 1997 OWCP issued a schedule award for a 35 percent impairment of appellant's right upper extremity. It informed her that she was already receiving a schedule award for a 24 percent impairment of her left upper extremity under a previous claim from an injury in 1986.² OWCP advised that it would deduct this amount from the total impairment of appellant's left upper extremity and award her the difference.

On August 23, 1999 OWCP issued a schedule award for an additional 11 percent impairment of appellant's left upper extremity. It explained that she currently had 35 percent impairment but had already been paid 24 percent under the previous claim; therefore, she was entitled to an additional 11 percent due to the accepted carpal tunnel syndrome.

In 2013 appellant claimed an additional schedule award. Dr. Daniel R. Ignacio, a Board-certified pain specialist, found that she had a 17 percent impairment of her right upper extremity. He indicated a three percent diagnosis-based impairment, eight percent impairment for sensory dysfunction, and six percent impairment for motor dysfunction along the right median nerve. Dr. Ignacio referenced Table 15-7, Table 15-8 and Table 15-9, as well as Table 15-21 and Table 16-11 of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (6th ed. 2009). "[Appellant] has a [c]lass IV, grade modifier of 3."

Dr. Ignacio also found that appellant had a 22 percent impairment of her left upper extremity. He indicated a 4 percent diagnosis-based impairment, 10 percent impairment for sensory defect and 8 percent impairment for motor defect. Dr. Ignacio referenced the same tables in the *Guides*.

An OWCP medical adviser reviewed the matter and noted that the highest rating appellant can receive for carpal tunnel syndrome is nine percent, and she had already received at least that much under previous awards. She concluded that, notwithstanding Dr. Ignacio's ratings, there was no evidence that appellant had any impairment for the accepted bilateral carpal tunnel syndrome above and beyond what was previously awarded.

In a decision dated January 16, 2014, OWCP denied an additional schedule award for the accepted bilateral carpal tunnel syndrome.

On appeal, appellant believes that the claims examiner denied her schedule award claim because an OWCP medical adviser instructed her that two of her cases were combined at the time she received previous awards, when in fact they were combined several years later after she had received those awards.

² OWCP File No. xxxxxx741. The record indicates that OWCP accepted his previous claim for left shoulder impingement and left carpal tunnel syndrome.

LEGAL PRECEDENT

The schedule award provisions of FECA³ and the implementing regulations⁴ set forth the number of weeks of compensation payable for permanent impairment from loss, or loss of use, of scheduled members or functions of the body. FECA, however, does not specify the manner in which the percentage of loss shall be determined. The method used in making such a determination is a matter that rests within the sound discretion of OWCP.⁵

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. OWCP has adopted the A.M.A., *Guides* as the appropriate standard for evaluating schedule losses.⁶ As of May 1, 2009, the sixth edition of the A.M.A., *Guides* is used to calculate schedule awards.⁷

ANALYSIS

Under the A.M.A., *Guides*, entrapment neuropathy is rated under Chapter 15.4f, page 432. This section is used to rate peripheral nerve entrapment or focal compression involving the median, ulnar or radial nerve. Focal compression of the median nerve at the wrist leading to the diagnosis of carpal tunnel syndrome is the most frequently encountered condition. To rate the impairment for focal nerve compression, the A.M.A., *Guides* instructs the evaluator to use Table 15-23, page 449.⁸

Under Table 15-23, Entrapment/Compression Neuropathy Impairment, the highest impairment rating any claimant can receive for carpal tunnel syndrome is nine percent. The record makes clear that appellant has already received a schedule award for a 35 percent impairment of her right upper extremity due to a moderate grade median nerve disorder at the right wrist. OWCP issued this award on March 13, 1997 based on a previous edition of the A.M.A., *Guides*. The rating of 35 percent far exceeds the maximum appellant may now receive under the currently applicable sixth edition of the A.M.A., *Guides*.

The record also makes clear that appellant has already received a schedule award for an additional 11 percent impairment of her left upper extremity due to carpal tunnel syndrome. OWCP had found a 35 percent impairment of the left upper extremity due to carpal tunnel syndrome, but as she previously received a schedule award for a 24 percent impairment of that same extremity, OWCP awarded her the difference of 11 percent for the accepted left carpal

³ 5 U.S.C. § 8107.

⁴ 20 C.F.R. § 10.404.

⁵ *Linda R. Sherman*, 56 ECAB 127 (2004); *Danniel C. Goings*, 37 ECAB 781 (1986).

⁶ 20 C.F.R. § 10.404; *Ronald R. Kraynak*, 53 ECAB 130 (2001).

⁷ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6.6a (January 2010).

⁸ *Id.* at 448, 449.

tunnel syndrome. It issued this award on August 23, 1999 based, again, on a previous edition of the A.M.A., *Guides*. The 11 percent additional award that appellant received for her left carpal tunnel syndrome exceeds the maximum that she may now receive under the currently applicable sixth edition of the A.M.A., *Guides*.

As appellant has already received schedule awards for the maximum impairment rating allowable for her accepted bilateral carpal tunnel syndrome the Board finds that she is not entitled to more. Accordingly, the Board affirms OWCP's January 16, 2014 decision denying an additional schedule award.

Dr. Ignacio, the evaluating pain specialist, calculated a 17 percent impairment of the right upper extremity and a 22 percent impairment of the left. He did not apply Table 15-23, page 449, which the A.M.A., *Guides* explicitly instructs the evaluator to use to rate the impairment of the upper extremity due to carpal tunnel syndrome. Instead, Dr. Ignacio found a diagnosis-based impairment of each upper extremity without identifying the regional grid and the diagnosis used. To this he added separate ratings for sensory and motor deficits under Table 15-21, but he did not explain where he located these ratings. One of the tables he referenced, Table 16-11, page 533, belongs in the chapter for rating lower extremities. Because Dr. Ignacio did not properly apply the A.M.A., *Guides*, his impairment rating of the upper extremities has little or no probative value.⁹

The Board notes that it does not matter what impairment rating a physician now reports for the accepted bilateral carpal tunnel syndrome. Appellant has already received the maximum schedule awards that any claimant may now receive for such a condition. She is not entitled to more.

Regarding appellant's contention on appeal, the combining of her case records has nothing to do with her entitlement to benefits. It is simply an administrative convenience that shows what has happened and what she has already received in other cases. This is important to help prevent a duplication of awards.

CONCLUSION

The Board finds that appellant is not entitled to an additional schedule award for the accepted bilateral carpal tunnel syndrome.

⁹ *E.g., H.J.*, Docket No. 13-144 (issued August 7, 2013) (the Board has held that an opinion that is not based upon the standards adopted by OWCP and approved by the Board as appropriate for evaluating schedule losses is of limited probative value in determining the extent of permanent impairment).

ORDER

IT IS HEREBY ORDERED THAT the January 16, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 19, 2014
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board