



## **FACTUAL HISTORY**

Appellant, a then 54-year-old letter carrier, filed a claim for traumatic injury alleging that he was struck by a motor vehicle on November 1, 2012 while delivering mail on foot. He was crossing a two-lane road when he was “grazed” on his right side by a truck traveling approximately 20 miles per hour. OWCP accepted appellant’s claim for right shoulder contusion, right knee contusion/abrasions, and aggravation of right shoulder sprain. Appellant had a prior history of right shoulder injury, including at least three right shoulder arthroscopic procedures performed on April 19, 2001, February 7 and October 18, 2002. With respect to his latest injury, OWCP authorized a September 17, 2013 right shoulder/arm arthroscopic procedure.<sup>3</sup>

On October 21, 2013 appellant accepted a full-time, limited-duty assignment as a city carrier. Effective January 29, 2014, his surgeon, Dr. Michael D. McDonald, Board-certified in orthopedic surgery, released him to return to work without restrictions. He determined that appellant had reached “maximal improvement.”

On July 30, 2014 appellant filed a claim for a schedule award (Form CA-7). At the time, he did not submit any medical evidence of permanent impairment.

On August 4, 2014 OWCP sent appellant a development letter requesting that he submit an upper extremity impairment rating in accordance with the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (2008). It afforded him 30 days to submit the required medical evidence in support of his schedule award claim.

In a September 5, 2014 decision, OWCP denied appellant’s claim for a schedule award because the current medical evidence failed to demonstrate a measurable impairment.

## **LEGAL PRECEDENT**

Section 8107 of FECA sets forth the number of weeks of compensation to be paid for the permanent loss of use of specified members, functions and organs of the body.<sup>4</sup> FECA, however, does not specify the manner by which the percentage loss of a member, function or organ shall be determined. To ensure consistent results and equal justice under the law, good administrative practice requires the use of uniform standards applicable to all claimants. The implementing regulations have adopted the A.M.A., *Guides* as the appropriate standard for

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<sup>3</sup> The September 17, 2013 surgery included subacromial decompression/bursectomy, biceps tendon release, and subpectoralis mini open biceps tenodesis.

<sup>4</sup> For a complete loss of use of an arm, an employee shall receive 312 weeks’ compensation. 5 U.S.C. § 8107(c)(1).

evaluating schedule losses.<sup>5</sup> Effective May 1, 2009, schedule awards are determined in accordance with the sixth edition of the A.M.A., *Guides* (2008).<sup>6</sup>

### ANALYSIS

Appellant's accepted conditions include right shoulder contusion and aggravation of right shoulder sprain. Additionally, OWCP authorized a September 17, 2013 right shoulder/arm arthroscopic procedure. Approximately one month after surgery, appellant returned to work in a full-time, limited-duty capacity. Dr. McDonald released appellant to resume full, unrestricted duties effective January 29, 2014. Several months later, appellant filed a claim for a schedule award (Form CA-7). However, he did not submit recent medical evidence describing the extent of any right upper extremity impairment. On August 4, 2014 OWCP instructed appellant to have his physician prepare an upper extremity rating in accordance with the A.M.A., *Guides* (6<sup>th</sup> ed. 2008). As OWCP correctly indicated, it was appellant's responsibility to furnish the required medical evidence to support his claim for schedule award benefits.<sup>7</sup> It afforded him a reasonable amount of time to submit the requested medical evidence. However, OWCP did not receive a recent examination report and/or impairment rating within the allotted 30-day time frame. Accordingly, OWCP properly denied appellant's claim for a schedule award. The Board finds that he failed to establish that he has a ratable impairment of the right upper extremity impairment.

### CONCLUSION

Appellant has not demonstrated a ratable impairment of his right upper extremity.

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<sup>5</sup> 20 C.F.R. § 10.404.

<sup>6</sup> See Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700, Exhibit 1 (January 2010); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards & Permanent Disability Claims*, Chapter 2.808.6a (February 2013).

<sup>7</sup> At the time, the record did not include a sufficiently detailed description of impairment such that one could visualize the character and degree of appellant's right upper extremity condition. See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards & Permanent Disability Claims*, Chapter 2.808.5b(2).

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 5, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 8, 2015  
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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