

FACTUAL HISTORY

On February 24, 2010 appellant, then a 53-year-old welder, filed a traumatic injury claim (Form CA-1) alleging that on February 17, 2010, while he was descending from working on top of a Bradley vehicle, he fell on concrete and hit his right wrist, thereby sustaining a broken right wrist. OWCP accepted appellant's claim on the same date he filed for a fracture of an unspecified part of radius (alone), closed, right. It later accepted his claim for the additional conditions of closed fracture lower end of radius (alone), other right; and right carpal tunnel syndrome. On February 25, 2010 appellant underwent an open reduction and internal fixation right radius Synthes plate. On May 12, 2012 he underwent a carpal tunnel release for his right hand.

On December 16, 2013 appellant filed a claim for a schedule award.

By letter dated December 27, 2013, OWCP informed appellant of the specific evidence required to support his claim for a schedule award. It noted that he needed to submit a narrative medical report with a physician determining whether appellant had reached maximum medical improvement with regard to his accepted employment injuries; note the diagnosis on which any impairment is based, including any related surgery; provide a detailed description of all pertinent objective findings and subjective complaints; and provide a detailed description of any permanent impairment of the same member or function which preexisted the injury.

In response, appellant submitted an October 5, 2013 report by Dr. Randy Terrell, an osteopath, noting that appellant's chief complaint was neck pain and hand pain. Dr. Terrell diagnosed chronic neck pain due to cervical spondylosis and status post open reduction and internal fixation for right wrist fracture in 2010 and right carpal tunnel release in 2012. He noted no joint tenderness or enlargement, but did note decreased range of motion of the right wrist. Dr. Terrell also noted decreased sensation in the right hand. He also provided range of motion findings.

By decision dated January 28, 2015, OWCP denied appellant's claim for a schedule award.

LEGAL PRECEDENT

The schedule award provision of FECA² and its implementing regulations³ 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. 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. OWCP evaluates the degree of permanent impairment according to the standards set forth in the specified edition of the American Medical Association, *Guides to the Evaluation*

² 5 U.S.C. § 8107.

³ 20 C.F.R. § 10.404.

of *Permanent Impairment* (A.M.A., *Guides*).⁴ The A.M.A., *Guides* has been adopted by the implementing regulations as the appropriate standard for evaluating schedule losses.⁵ For impairment ratings calculated on or after May 1, 2009, OWCP should advise any physician evaluating per impairment to use the sixth edition.⁶

It is the claimant's burden to establish that he or she has sustained a permanent impairment of the scheduled member as a result of any employment injury.⁷ 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 date occurred (date of maximum medical improvement), describe 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*.⁸

The sixth edition requires identifying the impairment Class of Diagnosis (CDX) condition, which is then adjusted by grade modifiers based on grade modifier for Functional History (GMFH), grade modifier for Physical Examination (GMPE) and grade modifier for Clinical Studies (GMCS).⁹ The net adjustment formula is (GMFH-CDX) + (GMPE-CDX) + (GMCS-CDX).¹⁰

ANALYSIS

OWCP accepted appellant's claim for fracture unspecified part of radius (alone), closed, right; closed fracture lower end of radius (alone), other right; and right carpal tunnel syndrome. Appellant underwent surgeries on his right wrist on February 25, 2010 and May 12, 2012. By decision dated January 28, 2015, OWCP denied his schedule award claim.

The Board finds that appellant has not submitted sufficient evidence to establish that, as a result of his employment injury, he sustained any permanent impairment to a scheduled member such that he would be entitled to a schedule award. By letter dated December 27, 2013, OWCP informed him of the type of evidence necessary to establish his schedule award claim. In response, appellant submitted an October 5, 2013 report wherein Dr. Terrell diagnosed appellant with cervical spondylosis and status post open reduction and internal fixation and wrist fracture

⁴ *Id.*

⁵ See Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700, Exhibit 1 (January 2010); see also Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.15a (February 2013).

⁶ *Id.* at Chapter 2.808.6.a (January 2010).

⁷ *Tammy L. Meehan*, 53 ECAB 229 (2001).

⁸ *Supra* note 5 at Chapter 2.808.5 (February 2013).

⁹ A.M.A., *Guides* 494-531.

¹⁰ *Id.* at 521.

in 2010 and right carpal tunnel release in 2012. Dr. Terrell noted decreased range of motion of the right wrist and decreased sensation in the right hand.

The Board finds that Dr. Terrell's October 5, 2013 report is insufficient to establish that appellant is entitled to a schedule award. OWCP procedures provide that maximum medical improvement must be reached before a schedule award can be made.¹¹ Dr. Terrell failed to state that maximum medical improvement had been reached and provided no impairment rating for appellant's right wrist.¹² Thus, his report is insufficient to establish that appellant reached maximum medical improvement and sustained a permanent impairment of his right wrist.

The Board notes that it is appellant's burden of proof to establish that he sustained a permanent impairment of a scheduled member as a result of an employment injury.¹³ 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.¹⁴ Appellant did not submit such evidence and thus, OWCP properly denied his schedule award claim.¹⁵

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 he is entitled to a schedule award for permanent impairment of his right arm.

¹¹ *Supra* note 5 at Chapter 3.700.3(a)(1) (January 2010).

¹² *J.R.*, Docket No. 14-1949 (issued April 28, 2015).

¹³ *E.D.*, Docket No. 10-967 (issued January 7, 2011).

¹⁴ *See A.L.*, Docket No. 08-1730 (issued March 16, 2009).

¹⁵ *L.F.*, Docket No. 10-343 (issued November 29, 2010); *V.W.*, Docket No. 09-2026 (issued February 16, 2010).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 28, 2015 is affirmed.

Issued: October 27, 2015
Washington, DC

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

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

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