



establishment had no light duty within the medical restrictions given by Dr. Grace Park, an attending osteopath. She received wage-loss compensation on the supplemental rolls from November 21, 2013 through November 7, 2014.<sup>2</sup>

Dr. Xing Yang, an attending physician Board-certified in occupational medicine, submitted reports through December 2013 noting continuing right hand and wrist symptoms. On November 8, 2014 appellant returned to full-time modified-duty work.

On December 22, 2014 appellant filed a claim for a schedule award (Form CA-7).

In a December 30, 2014 letter, OWCP advised appellant to submit a report from her attending physician establishing that the accepted conditions had attained maximum medical improvement, and providing an impairment rating according to the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (hereinafter, the A.M.A., *Guides*). Appellant was afforded 30 days to submit such evidence.

In response, appellant submitted copies of Dr. Yang's chart notes previously of record.

By decision dated April 14, 2015, OWCP denied appellant's schedule award claim, finding that she had failed to submit medical evidence establishing that the accepted conditions had attained maximum medical improvement, or caused any permanent impairment to a scheduled member of the body.

In an April 24, 2015 letter, appellant requested reconsideration. She submitted a March 30, 2015 chart note from Dr. Yang, repeating prior diagnoses.<sup>3</sup>

By decision dated May 8, 2015, OWCP denied reconsideration as appellant had not submitted any relevant new evidence in support of her request to warrant a merit review.

In a June 16, 2015 report, Dr. Yang noted that he did not perform impairment ratings. In his June 24, 2015 examination, he found full motion of the right wrist, normal two-point discrimination in the right hand, negative Finkelstein's, Tinel's, grind tests of the right wrist, and no tenderness to palpation of the right wrist and hand.

An August 31, 2015 functional capacity evaluation showed that appellant had full motion of all fingers of the right hand.

On September 1, 2015 OWCP obtained a second opinion from Dr. Mark Bernhard, an osteopath Board-certified in physiatry. Dr. Bernhard reviewed a statement of accepted facts and the medical record. He opined that appellant had reached maximum medical improvement as of November 10, 2014, the date that she returned to full-time work. Appellant completed a *QuickDASH* questionnaire with a score of 52. Dr. Bernhard related appellant's complaints of

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<sup>2</sup> On April 3, 2014 OWCP obtained a second opinion from Dr. Joon Y. Koh, a Board-certified orthopedic surgeon, who opined that appellant had continuing residuals of the accepted conditions. Dr. Koh found that appellant could return to full-time modified duty, with no repetitive use of the hands.

<sup>3</sup> Appellant participated in physical therapy in May 2015.

intermittent right hand pain and mild difficulties with activities of daily living. On examination, Dr. Bernhard observed full motion of all digits of both hands, full motion of both wrists, two-point discrimination at less than five millimeters throughout both upper extremities, no deformity or atrophy, and negative Finkelstein's, Froment's, Phalen's, and Tinel's tests in both arms. He diagnosed resolved de Quervain's tenosynovitis of the right wrist, no evidence of carpal tunnel syndrome, and no evidence of tenosynovitis. Dr. Bernhard explained that de Quervain's disease was rated most accurately under Table 15-3 of the A.M.A., *Guides*,<sup>4</sup> "under muscle tendon wrist sprain/strain." However, he noted that there were "no significant objective abnormal findings of muscle or tendon injury. Dr. Bernhard asserted appellant's *QuickDASH* score of 52 did not accurately represent her impairment, and would not be considered in the impairment rating. Referring to Table 15-23<sup>5</sup> regarding appellant's carpal tunnel syndrome, he found a grade modifier for functional history of zero and a grade modifier for physical examination of zero. Dr. Bernhard emphasized that appellant's history and physical examination were "entirely normal with an absence of any findings." He therefore found zero percent impairment of the right upper extremity.

An OWCP medical adviser reviewed Dr. Bernhard's report on September 28, 2015, and concurred with his finding of zero percent impairment.

By decision dated October 14, 2015, OWCP denied appellant's schedule award claim, finding that Dr. Bernhard's report, as reviewed by OWCP's medical adviser, demonstrated that appellant did not have a ratable impairment of the right upper extremity. It noted that Dr. Bernhard found no objective abnormalities of the right upper extremity.

### **LEGAL PRECEDENT**

The schedule award provisions of FECA<sup>6</sup> 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 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.<sup>7</sup> For schedule awards after May 1, 2009, the impairment is evaluated under the sixth edition of the A.M.A., *Guides*.<sup>8</sup>

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<sup>4</sup> Table 15-3, page 397 of the sixth edition of the A.M.A., *Guides* is entitled "Wrist Regional Grid: Upper Extremity Impairments."

<sup>5</sup> Table 15-23, page 449 of the sixth edition of the A.M.A., *Guides* is entitled "Entrapment/Compression Neuropathy Impairment."

<sup>6</sup> 5 U.S.C. § 8107.

<sup>7</sup> *Bernard A. Babcock, Jr.*, 52 ECAB 143 (2000).

<sup>8</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.5a (February 2013); see also Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 and Exhibit 1 (January 2010).

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).<sup>9</sup>

In addressing upper extremity impairments, the sixth edition requires identifying the impairment Class of Diagnosis (CDX) condition, which is then adjusted by grade modifiers based on Functional History (GMFH), Physical Examination (GMPE), and Clinical Studies (GMCS).<sup>10</sup> The net adjustment formula is (GMFH-CDX) + (GMPE-CDX) + (GMCS-CDX).<sup>11</sup>

### ANALYSIS

OWCP accepted that appellant sustained right radial styloid tenosynovitis, right carpal tunnel syndrome, and tendinitis of the right hand. Appellant received compensation for temporary total disability from November 21, 2013 to November 7, 2014. She returned to full-time modified duty on November 8, 2014.

Appellant claimed schedule award on December 22, 2014. OWCP advised her to submit her attending physician's opinion confirming that the accepted conditions had reached maximum medical improvement and rating any permanent impairment using the A.M.A., *Guides*. As appellant did not provide such evidence, OWCP denied the claim by decision dated April 14, 2015. By decision dated May 8, 2015, it denied her request for reconsideration as she had submitted no relevant evidence.

As Dr. Yang, appellant's attending physician, explained on June 16, 2015 that he did not perform impairment ratings, OWCP obtained a second opinion from Dr. Bernhard, a Board-certified orthopedic surgeon, who provided a September 1, 2015 report finding that appellant had attained maximum medical improvement. He found a full range of motion throughout both upper extremities, no neurologic deficits, and no objective sign of the accepted tendinitis or carpal tunnel syndrome. Dr. Bernhard therefore opined that appellant had no ratable impairment of the right upper extremity. An OWCP medical adviser concurred with his assessment. On October 14, 2015 OWCP again denied appellant's schedule award claim, based on Dr. Bernhard's opinion as the weight of the medical evidence.

The Board finds that the weight of the medical evidence established that appellant had no ratable impairment of the right upper extremity. Dr. Bernhard reviewed the complete medical record and a statement of accepted facts. He opined that appellant had attained maximum medical improvement. Dr. Bernhard performed an extremely thorough clinical examination, during which he observed no motor deficit, neurologic abnormality, deformity, or atrophy. He characterized appellant's examination as "entirely normal with an absence of any findings." Dr. Bernhard explained that appellant had no objective residuals of any of the accepted conditions, she had no permanent impairment of the right upper extremity. Appellant has not

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<sup>9</sup> A.M.A., *Guides* (6<sup>th</sup> ed. 2009), page 3, section 1.3, "The International Classification of Functioning, Disability and Health (ICF): A Contemporary Model of Disablement."

<sup>10</sup> *Id.* at 385-419, *see M.P.*, Docket No. 13-2087 (issued April 8, 2014).

<sup>11</sup> *Id.* at 411.

established an employment-related permanent impairment of the right upper extremity warranting a schedule award claim.

On appeal, appellant asserts that she should be compensated as she is no longer able to perform her date-of-injury position. She describes continued pain and paresthesias in the right upper extremity. The Board notes, however, that Dr. Bernhard found no objective abnormalities of either upper extremity.

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 has a ratable permanent impairment of the right upper extremity warranting a schedule award.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated October 14, 2015 is affirmed.

Issued: August 22, 2016  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board