



periods January 1 to July 31, 2012 and July 29 to September 22, 2014; and (2) whether appellant met her burden of proof to establish that she was entitled to a schedule award.

### **FACTUAL HISTORY**

On August 20, 1998 appellant, then a 39-year-old deportation assistant, filed an occupational disease claim (Form CA 2) alleging that she developed bilateral wrist and elbow pain, numbness in fingers, and left shoulder pain as a result of training staff members and inputting computer data. She did not stop work. The record reveals that in March 1996 appellant had been involved in a nonwork-related motor vehicle accident and sustained a cervical strain.

On November 20, 1998 OWCP accepted appellant's claim for bilateral wrist, elbow, and shoulder sprain. It did not accept a cervical condition. It requested that she provide medical reports related to her 1996 automobile accident before it made a determination regarding whether her current cervical symptoms were related to her employment. OWCP subsequently expanded acceptance of appellant's claim to include bilateral carpal tunnel syndrome, gastritis and gastroduodenitis, brachial neuritis or radiculitis, and cervical radiculopathy resolved.

This case has a complicated history as to whether appellant's cervical condition was causally related to the accepted injury and whether it caused periods of disability. This case has previously been before the Board.<sup>3</sup> The facts and circumstances as presented in the Board's prior decisions are incorporated herein by reference. The facts relevant to this appeal are as follows.

On December 8, 1999 appellant stopped work and subsequently filed claims for disability compensation. OWCP paid wage-loss compensation. Appellant returned to work on November 13, 2000. She was off work intermittently between December 11, 2000 and March 19, 2001. In March 2001 appellant resigned from federal employment. In June 2003 she returned to federal employment with the U.S. Attorney's Office.

On March 12, 2004 OWCP accepted appellant's claim for cervical radiculopathy, resolved.

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<sup>3</sup> On September 1, 2005 the Board issued an order which set aside a February 23, 2004 OWCP decision because appellant was denied the right to a hearing before an OWCP hearing representative. The Board remanded appellant's claim in order for OWCP to provide appellant the opportunity to exercise her right to an oral hearing. Docket No. 05-844 (issued September 1, 2005). By order dated February 4, 2010, the Board remanded appellant's case for OWCP to reconstruct and properly deliver the case record to the Board. Docket No. 09-2350 (issued February 4, 2010). On May 25, 2011 the Board issued an order that set aside the May 28, 2010 OWCP decision and remanded appellant's case for further development of the medical evidence. Docket No. 10-1810 (issued May 25, 2011). In a decision dated December 18, 2012, the Board determined that appellant's case was not in posture for decision as there remained an unresolved conflict in medical opinion regarding whether appellant's cervical condition was causally related to her employment. Docket No. 12-1056 (issued December 18, 2012). In a decision dated September 16, 2014, the Board affirmed OWCP's decision to deny appellant's request for reimbursement of travel expenses on May 22, 2012 because she failed to demonstrate that her travel from California to Arizona was necessary and reasonable for treatment of her accepted conditions. Docket No. 13-2097 (issued September 16, 2014).

Appellant submitted numerous requests for reconsideration of the decision that her work-related cervical condition had resolved.

On May 10, 2010 appellant was terminated from her federal employment.

OWCP referred appellant's case to Dr. Ronald Lampert, a Board-certified orthopedic surgeon, for examination and an opinion as to whether appellant's currently claimed cervical condition was causally related to her federal employment. In a July 13, 2011 report, Dr. Lampert opined that there was no evidence in appellant's medical history to indicate that she sustained a neck injury as a result of her federal employment. He concluded that the disc bulges seen on magnetic resonance imaging (MRI) scan evaluation were consistent with her age and not due to a traumatic event.

Following years of further development of the medical evidence, and denials of the claim related to appellant's cervical condition, OWCP determined that a conflict in medical opinion existed as to whether appellant's current cervical condition was causally related to factors of her employment. It referred appellant's claim to Dr. R. Richard Maxwell, a Board-certified orthopedic surgeon, for an impartial medical examination and an opinion to resolve the conflict in medical opinion evidence.

In a report dated November 18, 2011, Dr. Maxwell discussed appellant's history and provided physical examination findings. He opined that appellant's cervical radiculopathy and subsequent surgery were not related to her employment. Dr. Maxwell explained that even in an overuse syndrome, the repetitive motion of rotary and side-to-side bending would not cause a disc bulge or rupture to the point of requiring surgery. He opined that it was more than likely that appellant's flexion extension injury resulted from the 1999 automobile accident.

OWCP denied appellant's claim for a cervical condition in a decision dated March 5, 2012. It found that the special weight of medical evidence rested with Dr. Maxwell's November 18, 2011 impartial medical examiner's report.

Appellant underwent cervical disc surgery on May 16, 2012. Dr. Mohammad K. Khan, a Board-certified surgeon, performed disc resections at C5-6 and C6-7. Appellant underwent authorized right open carpal tunnel release, left endoscopic carpal tunnel release, and right *de Quervain's* release on August 1, 2012. This procedure was performed by Dr. Mark Mellinger, a Board-certified hand surgeon.

OWCP paid appellant wage-loss compensation on the supplemental rolls as of August 1, 2012. Appellant continued to submit claims for continued disability compensation.

On December 13, 2012 OWCP received an October 13, 2012 report from Dr. Travis H. Calvin Jr., a Board-certified neurosurgeon. In this report, Dr. Calvin related that appellant was seen at the request of Dr. Mellinger. He related a detailed history of appellant's medical treatment and current physical examination findings. Dr. Calvin related that appellant was status post bilateral carpal tunnel revisions of August 1, 2012, with minimal carpal tunnel symptoms, and status post anterior cervical fusion C5-6, stable. He opined that appellant would continue to be disabled for two months, as she had to avoid excessive hand use activities. In a progress report dated December 4, 2012, Dr. Calvin related that appellant still had residual "tissue edema"

of the right hand, which may require an additional three months to reach maximum recovery. On January 15, 2013 he reported that appellant's carpal tunnel syndrome had improved with no motor weakness in neither upper extremity and no sensory deficit.

In a letter dated February 6, 2013, OWCP requested that Dr. Maxwell provide a supplemental report of his November 18, 2011 impartial medical report. Dr. Maxwell was asked to include a detailed clinical history, detailed examination findings, and an explanation on whether appellant's cervical condition was causally related to her employment. No response was received.

In February 2013 appellant began receiving medical treatment from Dr. James E. Creek, a family practitioner. In May 8 and 22, 2013 reports, Dr. Creek related that appellant continued to have bilateral upper extremity pain, numbness, tingling, and grip weakness with persistent right cervical shoulder pain. Upon examination of appellant's cervical spine, he observed a healed anterior surgical scar over the midline, painful range of motion, and tenderness of the paraspinal musculature, right trapezius muscle, right mid-scapular muscle, and the anterior scalene muscles. Dr. Creek provided physical examination findings of appellant's bilateral upper extremities. He noted tenderness and pain with dorsiflexion of the right wrist and weakness and tenderness in the right medial epicondyle. Dr. Creek diagnosed cervical degenerative disc disease postoperative cervical discectomy, right shoulder strain with impingement and tendinitis, right lateral and medial epicondylitis, and bilateral carpal tunnel syndrome. He recommended additional diagnostic testing. In various work status reports, Dr. Creek recommended that appellant remain off work until April 23, 2014.

In a letter dated June 24, 2013, OWCP advised appellant that the evidence submitted was insufficient to establish her claims for disability compensation beginning January 1, 2012. It requested additional evidence to demonstrate that she was unable to work beginning January 1, 2012 as a result of her accepted conditions.

On August 8, 2013 appellant called OWCP and asked whether it was able to obtain further clarification and a supplemental report from Dr. Maxwell, the impartial medical examiner, as instructed by the Board in its December 18, 2012 decision in Docket No. 12-1056. The claims examiner indicated that he reviewed appellant's file and noted that a letter was sent to Dr. Maxwell, but without a response. He noted that he would have to obtain another impartial medical opinion to resolve the conflict in medical opinion evidence.

On June 13, 2014 OWCP determined that a conflict in medical opinion evidence existed between Dr. Lampert, an OWCP referral physician, and Dr. Calvin, appellant's treating physician regarding whether appellant continued to suffer from a work-related cervical condition.<sup>4</sup> It referred appellant, along with a statement of accepted facts (SOAF), to Dr. Harry Marinow, a Board-certified orthopedic surgeon for an impartial medical examination in order to resolve the conflict.

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<sup>4</sup> OWCP specifically pointed out that in Dr. Lampert's July 13, 2011 report, he opined that appellant had not sustained an injury to her neck and that there was insufficient evidence to show that ongoing repetitive work had caused or aggravated a neck condition. Appellant's treating physician, Dr. Calvin, however, determined in his February 26, 1999 report that appellant's cervical condition was caused by overuse and poor positioning at work.

In a June 19, 2014 letter, appellant indicated that she received OWCP's letter which referred her to an impartial medical examiner and expressed her refusal to attend the examination. She discussed the progression of her claim including the various remands by the Board and other OWCP-directed examinations which she attended. Appellant also reviewed various medical reports beginning in 2000 and alleged that various doctors had established that her cervical injury was work related and that she was unable to work due to her accepted condition. She pointed out that OWCP had been developing her claim for 16 years and required four different second opinion evaluations in order to determine whether her current cervical condition was work related. Appellant related that she had suffered because OWCP had delayed gathering the evidence needed for a proper decision. She noted that she submitted various medical reports from Dr. Creek and Dr. Calvin, which demonstrated that she was disabled from work beginning November 1, 2012 until the present time.

On July 2, 2014 Dr. Marinow's office informed OWCP that appellant did not attend the impartial medical examination scheduled for July 1, 2014.

On July 10, 2014 OWCP proposed to suspend appellant's compensation benefits under 5 U.S.C. § 8123(d) because she failed to report to the examination on July 1, 2014 as directed pursuant to the December 18, 2012 Board decision. Appellant was provided 14 days to explain her refusal to attend the examination.

In a July 16, 2014 letter, appellant responded to OWCP's notice of proposed suspension of compensation due to her failure to report for examination with Dr. Marinow. She noted that she sent a letter to OWCP dated June 19, 2014 informing them that she was not going to attend the examination. Appellant further noted that the Board's December 18, 2012 decision ordered OWCP to request a supplemental report from Dr. Maxwell, an impartial medical examiner, but instead, OWCP referred her for another impartial medical examination. She requested that OWCP review the medical evidence provided by Dr. Creek and Dr. Calvin and the September 10, 2013 MRI scan examination report before making a second opinion examination referral. Appellant also discussed the medical treatment she received and the progression of her claim. She noted that every OWCP-directed evaluation was deemed to be of "limited probative value" by the Board. Appellant noted that OWCP had accepted her claim for cervical radiculopathy, resolved and that she appealed only the "resolved" aspect of that decision. She related that she was presently in disability status for accepted injuries, but OWCP refused to authorize additional medical treatment other than pain medicine.

On July 29, 2014 OWCP finalized the suspension of appellant's wage-loss and medical compensation benefits. It determined that appellant's reasons to refuse to attend an OWCP-directed examination in her June 16 and July 16, 2014 letters were without merit.

In an August 11, 2014 letter, appellant expressed her concerns about the delays by OWCP in the processing of her claim. She alleged that even though the last four OWCP-directed examinations had been deemed of limited probative value, OWCP failed to request the physician to elaborate or clarify his findings. Appellant asserted that the question of whether her cervical condition was work related was settled so she did not understand why OWCP continued to deny her treatment. She discussed her claim and the mistakes and delays by OWCP for the

past 10 years. Appellant resubmitted OWCP's March 12, 2004 decision which accepted her claim for cervical radiculopathy, resolved.

OWCP rescheduled appellant's impartial medical examination with Dr. Marinow for September 23, 2014.

In a September 23, 2014 medical report, Dr. Marinow related that appellant worked for the employing establishment and reviewed her duties as a deportation docket clerk. He discussed appellant's employment history and reviewed the extensive record of medical reports beginning in August 1998 about the medical treatment that appellant received, specifically for neck and upper extremity symptoms. Dr. Marinow noted appellant's current complaints of constant cervical spine pain radiating to her trapezius muscles and shoulders, constant bilateral shoulder pain aggravated with repetitive movement of her arms, and bilateral elbow pain. He provided physical examination findings of appellant's cervical spine and upper extremities. Dr. Marinow diagnosed chronic cervical spine myofascial pain syndrome, degenerative disc disease at the C4-5 interspace, bilateral shoulder trapezial myofascitis symptoms with acromioclavicular (AC) joint degenerative osteoarthritis, bilateral elbow epicondylar, and myofascial pain symptoms, right wrist chronic tendinitis symptoms with chronic carpal tunnel syndrome residuals, and left wrist chronic tendinitis symptoms with carpal tunnel syndrome. He noted that the medical evidence demonstrated that appellant was experiencing and complaining of neck pain symptoms dating back to at least November 1997. Dr. Marinow opined that appellant's cervical condition was causally related to her employment injuries, with subsequent aggravation as a result of a second nonindustrially-related motor vehicle accident on April 28, 1999.

OWCP paid wage-loss compensation from November 1, 2012 to July 28, 2014, the date that OWCP suspended appellant's disability compensation. It also paid compensation beginning September 23, 2014, the date that appellant attended her impartial medical examination. OWCP notified appellant that she would be placed on the periodic rolls.

In a letter dated June 25, 2015, OWCP informed appellant that she was not eligible for compensation for the period July 29 through September 22, 2014 because she did not report to the impartial medical examination scheduled for July 1, 2014. It explained that her compensation was reinstated following her cooperation with the examination.

On July 3, 2015 appellant requested reconsideration of OWCP's denial of compensation benefits for the periods January 1 to July 31, 2012 and July 29 to September 22, 2014. She alleged that she filed claims for compensation (Form CA-7) for all of 2012, but was not paid for the period January 1 through July 31, 2012. Appellant asserted that Dr. Mellinger's medical reports and requests for surgery evinced that she should be entitled to wage-loss compensation. She noted that OWCP provided disability compensation for the time period following the authorized carpal tunnel release surgery from August 1 to October 31, 2012 and asserted that OWCP should pay her disability for the remaining period in 2012 because she was unable to return to work and filed timely claims for disability compensation.

Regarding the period June 29 to September 22, 2014, appellant explained that when she received the June 13, 2014 letter from OWCP informing her of her scheduled second opinion

examination she began to panic because she had less than two weeks to gather all her medical documentation. When she realized that she did not have enough time to obtain all her medical reports before the scheduled examination, she notified OWCP before the seven-day deadline in a June 19, 2014 letter that she was not able to attend the scheduled examination. Appellant discussed her various letters to OWCP requesting more time to gather evidence before she attended the scheduled examination. She alleged that she never obstructed the examination or refused to cooperate, but merely requested more time to gather medical evidence, specifically a computerized tomography myelogram, which she believed was crucial for the impartial medical examiner to review. Appellant believed the denial period was unfair because she sent two letters requesting to reschedule the appointment.

On July 31, 2015 appellant filed a claim for a schedule award (Form CA-7).

By letter dated July 21, 2015, OWCP informed appellant that no medical evidence was submitted in support of her schedule award claim. It requested that she submit a medical report from her treating physician which addressed whether she reached maximum medical improvement (MMI) and whether her accepted conditions caused permanent impairment pursuant to the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*).

Appellant continued to be treated by Dr. Creek. In progress reports and work status notes dated July 29 to September 1, 2015, he noted that appellant complained of constant pain. Upon examination, Dr. Creek observed decreased sensation of the left second digit and right fifth digit, positive right cervical neck painful range of motion, and tenderness along the midline and paraspinal muscles. Tinel's test was positive, left greater than right, and grip strength was decreased, left greater than right. Dr. Creek diagnosed spinal stenosis and right cervical radiculopathy. He indicated that appellant was unable to return to work.

In an August 19, 2015 narrative report, Dr. Creek indicated that he reevaluated appellant for neck, shoulder, and bilateral arm pain with associated numbness and tingling in the hands and fingers with increasing pain over the last eight to nine years. He noted that since appellant underwent several surgeries many physicians had requested authorization for cervical myelogram, physical medicine rehabilitation evaluation, pain management evaluation, and psychiatric evaluation. Dr. Creek indicated that appellant had not been able to return to work because of functional limitations. He diagnosed chronic cervical spine myofascial syndrome, degenerative disc disease at C4-5 interspace, past history of anterior cervical discectomy with prosthetic replacement, bilateral shoulder trapezial myofascitis symptoms with AC joint degenerative osteoarthritis, bilateral elbow epicondylar and myofascial pain symptoms, right wrist chronic tendinitis symptoms with chronic carpal tunnel syndrome residuals, and left wrist chronic tendinitis symptoms with carpal tunnel syndrome residual. Dr. Creek explained that the combination of multiple conditions including the chronic pain syndrome precluded appellant from returning to meaningful clerical work. He noted that appellant's current work status would be total temporary disability pending the recommended evaluations.

Appellant also resubmitted Dr. Marinow's September 23, 2014 impartial medical report and Dr. Creek's progress reports dated February 25 to June 16, 2015.

In a decision dated September 30, 2015, OWCP denied further merit review of appellant's case. It determined that the evidence submitted was repetitive and substantially similar to evidence previously submitted.

By decision dated October 20, 2015, OWCP denied appellant's claim for schedule award. It noted that appellant provided insufficient medical evidence to establish a schedule award.

### **LEGAL PRECEDENT -- ISSUE 1**

Section 8128(a) of FECA vests OWCP with discretionary authority to determine whether to review an award for or against compensation.<sup>5</sup> OWCP's regulations provide that OWCP may review an award for or against compensation at any time on its own motion or upon application. An employee shall exercise his or her right through a request to the district office.<sup>6</sup>

To require OWCP to reopen a case for merit review pursuant to FECA, the claimant must provide evidence or an argument that: (1) shows that OWCP erroneously applied or interpreted a specific point of law; (2) advances a relevant legal argument not previously considered by OWCP; or (3) constitutes relevant and pertinent new evidence not previously considered by OWCP.<sup>7</sup>

A request for reconsideration must also be received within one year of the date of OWCP's decision for which review is sought.<sup>8</sup> A timely request for reconsideration may be granted if OWCP determines that the employee has presented evidence or provided an argument that meets at least one of the requirements for reconsideration. If OWCP chooses to grant reconsideration, it reopens and reviews the case on its merits.<sup>9</sup> If the request is timely but fails to meet at least one of the requirements for reconsideration, OWCP will deny the request for reconsideration without reopening the case for review on the merits.<sup>10</sup>

### **ANALYSIS -- ISSUE 1**

The Board lacks jurisdiction to review the merits of the underlying issue of whether appellant has established entitlement to wage-loss compensation for the periods January 1 to July 31, 2012 and July 29 to September 22, 2014. The Board's jurisdiction is limited to determining whether OWCP properly denied a merit review of her request for reconsideration.

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<sup>5</sup> 5 U.S.C. § 8128(a); *see also D.L.*, Docket No. 09-1549 (issued February 23, 2010); *W.C.*, 59 ECAB 372 (2008).

<sup>6</sup> 20 C.F.R. § 10.605; *see also R.B.*, Docket No. 09-1241 (issued January 4, 2010); *A.L.*, Docket No. 08-1730 (issued March 16, 2009).

<sup>7</sup> *Id.* at § 10.606(b); *see also L.G.*, Docket No. 09-1517 (issued March 3, 2010); *C.N.*, Docket No. 08-1569 (issued December 9, 2008).

<sup>8</sup> *Id.* at § 10.607(a).

<sup>9</sup> *Id.* at § 10.608(a); *see also M.S.*, 59 ECAB 231 (2007).

<sup>10</sup> *Id.* at § 10.608(b); *E.R.*, Docket No. 09-1655 (issued March 18, 2010).

Appellant has worked intermittently and has received wage-loss compensation for periods of disability related to her carpal tunnel syndrome. She has not received wage-loss compensation associated with her cervical radiculopathy claim. Appellant therefore did not receive wage-loss compensation during the period January 1 to July 31, 2012, which was a period associated with her May 16, 2012 cervical disc surgery.

On July 29, 2014 OWCP issued a decision suspending her entitlement to compensation because she did not attend an OWCP-directed examination scheduled for July 1, 2014. Appellant attended the rescheduled examination on September 23, 2014. By decision dated June 25, 2015, OWCP paid appellant disability compensation beginning November 1, 2012, except for the period July 29 through September 22, 2014. Appellant submitted a request for reconsideration of that decision, which was received by OWCP on July 3, 2015.

The Board finds that in her application for reconsideration appellant has not shown that OWCP erroneously applied or interpreted a specific point of law; she has not advanced a relevant legal argument not previously considered by OWCP; and she has not submitted relevant and pertinent new evidence not previously considered by OWCP.

Appellant discussed several OWCP-directed examinations that she attended and the various remands which determined that these examination reports were not well rationalized. The Board notes that appellant has previously made similar arguments in her June 19 and July 16, 2014 statements which expressed her refusal to attend the OWCP-directed examination on July 1, 2014. As appellant's allegations do not advance a new legal argument nor demonstrate that OWCP erroneously applied or interpreted a specific point of law, these allegations do not warrant further review of appellant's claim.

Appellant also submitted new medical reports from Dr. Creek dated July 29 to September 1, 2015 regarding treatment for her cervical and upper extremity conditions. These reports, however, fail to address appellant's disability during the period January 1 to July 31, 2012 or appellant's refusal to attend the impartial medical examination on July 1, 2014 and the suspension of her benefits from July 29 to September 22, 2014. The Board notes that the submission of evidence that does not address the particular issue involved does not constitute a basis for reopening a case.<sup>11</sup>

The Board finds that appellant did not meet any of the requirements of 20 C.F.R. § 10.606(b)(3) to warrant a review of the merits. Accordingly, the Board finds that OWCP properly refused to reopen her case for further consideration of the merits of her claim under 5 U.S.C. § 8128.

### **LEGAL PRECEDENT -- ISSUE 2**

The schedule award provision of FECA<sup>12</sup> and its implementing regulations set forth the number of weeks of compensation payable to employees sustaining permanent impairment from

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<sup>11</sup> *Alan G. Williams*, 52 ECAB 180 (2000); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>12</sup> 5 U.S.C. §§ 8101-8193.

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 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 the appropriate standards for evaluating schedule losses.<sup>13</sup>

Not all medical conditions accepted by OWCP result in permanent impairment to a scheduled member.<sup>14</sup> It is the claimant's burden to establish that she has sustained a permanent impairment of the scheduled member or function as a result of any employment injury.<sup>15</sup> Before an award may be made, it must be medically determined that no further improvement can be anticipated and the impairment must reach a fixed and permanent state, which is known as MMI.<sup>16</sup> OWCP procedures provide that, to support a schedule award, the file must contain competent medical evidence which describes 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*.<sup>17</sup>

## **ANALYSIS -- ISSUE 2**

OWCP accepted that appellant sustained bilateral wrist, elbow, and shoulder strains, bilateral carpal tunnel syndrome, gastritis and gastroduodenitis, brachial neuritis or radiculitis, and cervical radiculopathy in the performance of duty as a result of her duties as a deportation assistant. On July 21, 2015 it received appellant's claim for a schedule award.

The only contemporaneous medical evidence submitted with appellant's schedule award claim are Dr. Creek's progress reports dated July 29 to September 1, 2015 and a narrative report dated August 19, 2015. Although Dr. Creek recounted his medical treatment of appellant for her cervical and upper extremity conditions, he did not address whether appellant sustained a permanent impairment as a result of her accepted conditions nor opine on whether appellant had reached MMI. In order to be entitled to a schedule award, a claimant must establish that she is at MMI and sustained a permanent impairment of a scheduled member of the body due to an employment injury.<sup>18</sup> It is appellant's burden of proof to submit sufficient evidence to establish the extent of permanent impairment.<sup>19</sup> As she did not submit any probative medical opinion

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<sup>13</sup> 20 C.F.R. § 10.404 (1999); *see also Jacqueline S. Harris*, 54 ECAB 139 (2002).

<sup>14</sup> *Thomas P. Lavin*, 57 ECAB 353 (2006).

<sup>15</sup> *Tammy L. Meehan*, 53 ECAB 229 (2001).

<sup>16</sup> Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.3(a)(1) (January 2010).

<sup>17</sup> *Id.* at Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.7 (February 2013).

<sup>18</sup> *C.H.*, Docket No. 16-0263 (issued March 25, 2016); *R.E.*, Docket No. 14-713 (issued June 26, 2014); *D.R.*, 57 ECAB 720 (2006).

<sup>19</sup> *See Annette M. Dent*, 44 ECAB 403 (1993). *C.C.*, Docket No. 13-1399 (issued April 24, 2014).

evidence from a physician addressing how her impairment correlated to the appropriate edition of the A.M.A., *Guides* and explaining the causal relationship between the findings and her permanent impairment, the Board finds that appellant did not meet her burden of proof to establish her entitlement to a schedule award.

Appellant may request a schedule award based on medical evidence showing progression of an employment-related condition resulting in permanent impairment or increased impairment.

### **CONCLUSION**

The Board finds that OWCP properly denied further merit review of appellant's claim under 5 U.S.C. § 8128(a). The Board also finds that appellant has not established that she sustained a permanent impairment causally related to her employment condition.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the September 30, 2015 nonmerit decision and October 20, 2015 merit decision of the Office of Workers' Compensation Programs are affirmed.

Issued: December 16, 2016  
Washington, DC

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

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

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