



## **FACTUAL HISTORY**

On March 14, 2013 appellant, then a 43-year-old carrier, filed a traumatic injury claim (Form CA-1) alleging that on that date he injured his right ankle in the performance of duty.<sup>3</sup> OWCP accepted the claim for a right ankle sprain.

Appellant stopped work on March 13, 2013. His physician released him to resume his usual work on March 18, 2013.

On May 11, 2016 appellant filed a claim for a schedule award (Form CA-7). By letter dated May 20, 2016, OWCP requested that he submit a report from his attending physician addressing whether he had reached maximum medical improvement and the extent of any employment-related impairment in accordance with the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*).<sup>4</sup>

By decision dated October 14, 2016, OWCP denied appellant's claim for a schedule award. It noted that he had not submitted evidence supporting a permanent impairment as requested.

## **LEGAL PRECEDENT**

The schedule award provision of FECA,<sup>5</sup> and its implementing federal regulation,<sup>6</sup> 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 for all claimants, OWCP has adopted the A.M.A., *Guides* as the uniform standard applicable to all claimants.<sup>7</sup> As of May 1, 2009, the sixth edition of the A.M.A., *Guides* is used to calculate schedule awards.<sup>8</sup>

A claimant has the burden of proof under FECA to establish a permanent impairment of a scheduled member or function as a result of his employment injury entitling him to a schedule award.<sup>9</sup> Before the A.M.A., *Guides* can be utilized a description of impairment must be obtained from his physician. In obtaining medical evidence required for a schedule award, the evaluation made by the attending physician must include a description of the impairment including, where

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<sup>3</sup> Subsequent to the employment injury the employing establishment properly executed a Form CA-16.

<sup>4</sup> A.M.A., *Guides* (6<sup>th</sup> ed. 2009).

<sup>5</sup> 5 U.S.C. § 8107.

<sup>6</sup> 20 C.F.R. § 10.404.

<sup>7</sup> *Id.* at § 10.404(a).

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

<sup>9</sup> *See D.H.*, 58 ECAB 358 (2007); *Annette M. Dent*, 44 ECAB 403 (1993).

applicable, the loss in degrees of active and passive motion of the affected member or function, the amount of any atrophy or deformity, decrease in strength or disturbance of sensation or other pertinent descriptions of the impairment. This description must be in sufficient detail so that the claims examiner and others reviewing the file will be able to clearly visualize the impairment with its resulting restrictions and limitations.<sup>10</sup>

### **ANALYSIS**

OWCP accepted that appellant sustained a right ankle sprain due to a March 14, 2013 employment injury. On May 11, 2016 he filed a schedule award claim.

OWCP, on May 20, 2016, requested that appellant submit an impairment evaluation from his physician addressing the extent of any employment-related permanent impairment using the A.M.A., *Guides*. Appellant did not, however, submit an impairment evaluation or other medical evidence establishing permanent impairment. As noted, he must submit an evaluation from a physician that includes a description of impairment in sufficient detail so that the claims examiner and others reviewing the file will be able to clearly visualize the impairment with its resulting restrictions and limitations.<sup>11</sup> Appellant failed to submit any medical evidence establishing a permanent impairment due to his accepted right ankle sprain and thus has not met his burden of proof.<sup>12</sup>

Appellant may request a schedule award or increased schedule award at any time 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 permanent impairment to a scheduled member entitling him to a schedule award.

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<sup>10</sup> *D.M.*, Docket No. 11-0775 (issued October 11, 2011); *Peter C. Belkind*, 56 ECAB 580 (2005).

<sup>11</sup> *See C.B.*, Docket No. 16-0060 (issued February 2, 2016).

<sup>12</sup> *See P.L.*, Docket No. 13-1592 (issued January 7, 2014).

**ORDER**

**IT IS HEREBY ORDERED THAT** the October 14, 2016 decision of the Office of Workers' Compensation Programs is affirmed.<sup>13</sup>

Issued: March 13, 2018  
Washington, DC

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

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

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

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<sup>13</sup> The record contains a Form CA-16 dated March 14, 2013 and signed by the employing establishment. The Board has held that where an employing establishment properly executes a Form CA-16, which authorizes medical treatment as a result of an employee's claim for an employment-related injury, it creates a contractual obligation, which does not involve the employee directly, to pay the cost of the examination or treatment regardless of the action taken on the claim. *See D.M.*, Docket No. 13-0535 (issued June 6, 2013); *Val D. Wynn*, 40 ECAB 666 (1989). *See also* 20 C.F.R. § 10.300; Federal (FECA) Procedure Manual, Part 3 -- Medical, *Authorizing Examination and Treatment*, Chapter 3.300.3(a)(3) (February 2012).