

ISSUE

The issue is whether appellant has met her burden of proof to establish more than one percent permanent impairment of the right lower extremity and one percent permanent impairment of the left lower extremity, for which she previously received schedule award compensation.

FACTUAL HISTORY

On June 8, 1995 appellant, then a 36-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that she developed bilateral plantar fasciitis due to factors of her federal employment, including constant standing.

By decision dated September 29, 1995, OWCP accepted appellant's claim for the condition of bilateral plantar fasciitis.

On August 8, 2001 appellant filed a claim for a schedule award (Form CA-7).

In development letters dated September 17, 2001, April 1, 2002, and October 6, 2003, OWCP requested that Dr. Anthony J. Gatti, a podiatrist, provide an impairment rating pursuant to the fifth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*).³

On October 17, 2003 appellant was evaluated by Dr. Charles Haendel, a podiatrist, who opined that appellant had reached maximum medical improvement (MMI) on October 17, 2003. Dr. Haendel noted dorsiflexion of 10 degrees, plantar flexion of 45 degrees, inversion of 25 degrees, eversion to 25 degrees, and ankyloses of 10 degrees. He opined that appellant sustained zero percent impairment of the bilateral lower extremities.

By decision dated November 7, 2003, OWCP denied appellant's schedule award claim, finding that the medical evidence of record was insufficient to establish permanent impairment of a scheduled member or function of the body. On May 19, 2004 an OWCP hearing representative affirmed the November 7, 2003 decision.

On April 20, 2018 appellant filed a claim for a schedule award (Form CA-7).

In a development letter dated May 4, 2018, OWCP requested that Dr. Jennifer Price, a podiatrist, submit an impairment rating in accordance with the sixth edition of the A.M.A., *Guides*.⁴

In an April 30, 2018 report, Dr. Price treated appellant in follow up for chronic bilateral heel pain. Appellant reported that the heel pain developed gradually over several years and pain was worse with weight bearing and alleviated by orthotics. Findings on examination of the bilateral lower extremities revealed mild pain to the sub-metatarsal of the forefoot, mild pain to palpation of the plantar fascia medial band insertion into the calcaneus, and pain along the dorsal

³ A.M.A., *Guides* (5th ed. 2001).

⁴ A.M.A., *Guides* (6th ed. 2009).

aspect of the fifth toe which was contracted. X-rays of appellant's feet revealed inferior calcaneal spurs. Dr. Price diagnosed plantar fasciitis, metatarsalgia of both feet, and bilateral calcaneal spurs.

On May 9, 2018 Dr. Price indicated that appellant's injury resulted in permanent impairment. She diagnosed plantar fasciitis, bilateral calcaneal spurs, and bilateral metatarsalgia. Dr. Price noted that appellant had a history of chronic plantar fasciitis as she stood and walked on her feet all day. Objective findings were bilateral pain to palpation of the plantar fascia medial band, and inferior calcaneal spurring, bilaterally. Appellant complained of bilateral foot pain and pain on the left outer side of the foot. Dr. Price determined appellant had 25 percent impairment of the left and right feet.

On August 24, 2018 OWCP referred appellant's case to a district medical adviser (DMA) to determine whether the medical evidence of record established permanent impairment of a scheduled member or function of the body causally related to appellant's accepted condition.

On September 5, 2018 the DMA reviewed the medical evidence of record and determined that appellant's date of MMI was May 9, 2018, the date of Dr. Price's impairment examination. Utilizing the diagnosis-based impairment (DBI) methodology as set forth in Table 16-2, page 501-08, of the A.M.A., *Guides*, he found that her most impairing diagnosis was plantar fasciitis. The DMA placed appellant into a class 1 diagnosis and assigned a grade modifier of 1 for functional history (GMFH) because she still had symptoms in her foot joint. He assigned a grade modifier of 1 for physical examination (GMPE) because she had an antalgic limp. The DMA found that a grade modifier for clinical studies (GMCS) was inapplicable in this case. Using the net adjustment formula $(GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX)$, he calculated that appellant had a net adjustment of $(1-1) + (1-1) + (n/a) = \text{zero}$, equaling a default grade C. Based on these calculations, the DMA concluded that she had one percent permanent impairment of the right lower extremity and one percent permanent impairment left lower extremity. He disagreed with Dr. Price's schedule award determination of 25 percent of the bilateral lower extremities and noted that she provided no methodology to show how she reached that figure. The DMA advised that with a diagnosis of plantar fasciitis the highest rated impairment was two percent of the lower extremities.

On September 7, 2018 OWCP requested that Dr. Price review the impairment rating from the DMA and respond by opining whether she disagreed with his calculations, and providing her rationale based on the provisions set forth in the sixth edition of the A.M.A., *Guides*.

Dr. Price resubmitted her May 9, 2018 impairment rating.

By decision dated November 30, 2018, OWCP granted appellant a schedule award for one percent permanent impairment of the right lower extremity and one percent permanent impairment of the left lower extremity. The award ran for 4.1 weeks for the period from May 9 to June 6, 2018. OWCP afforded the weight of the medical evidence to the DMA's September 5, 2018 report.

LEGAL PRECEDENT

The schedule award provisions of FECA and its implementing regulations provide for compensation to employees sustaining impairment from loss or loss of use of specified members of the body.⁵ 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.⁶ For schedule awards after May 1, 2009, the impairment is evaluated under the sixth edition of the A.M.A., *Guides*, published in 2009.⁷

The sixth edition of the A.M.A., *Guides* provides a DBI method of evaluation utilizing the World Health Organization's International Classification of Functioning, Disability and Health (ICF).⁸ Under the sixth edition, the evaluator identifies the impairment class of diagnosis (CDX) condition, which is then adjusted by grade modifiers based on GMFH, GMPE, and GMCS.⁹ The net adjustment formula is (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX). Evaluators are directed to provide reasons for their impairment rating choices, including the choices of diagnoses from regional grids and calculations of modifier scores.¹⁰

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish more than one percent permanent impairment of the right lower extremity and one percent permanent impairment of the left lower extremity, for which she previously received schedule award compensation.

In her May 9, 2018 report, Dr. Price opined that appellant had 25 percent permanent impairment of the bilateral lower extremities based on his diagnosis of plantar fasciitis. However, she did not provide a detailed citation to the A.M.A., *Guides* and her rating was therefore insufficient to establish permanent impairment for purposes of a schedule award.

In accordance with its procedures, OWCP properly referred the evidence of record to a DMA, who, in a September 5, 2018 report, reviewed the medical record and determined that

⁵ 5 U.S.C. § 8107; 20 C.F.R. § 10.404.

⁶ See *Bernard A. Babcock, Jr.*, 52 ECAB 143 (2000). See also *id.* at § 8107.

⁷ See *D.T.*, Docket No. 12-0503 (issued August 21, 2012); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6.6a (March 2017); see also Federal (FECA) Procedure Manual Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 and Exhibit 1 (January 2010).

⁸ A.M.A., *Guides* (6th ed. 2009), page 3, section 1.3, International Classification of Functioning, Disability and Health (ICF): A Contemporary Model of Disablement.

⁹ *Id.* at 494-531.

¹⁰ See *R.V.*, Docket No. 10-1827 (issued April 1, 2011).

appellant's date of MMI was May 9, 2018, the date of Dr. Price's impairment examination. Utilizing Table 16-2, page 501-08, of the sixth edition of the A.M.A., *Guides*, the DMA found that appellant's most impairing diagnosis was plantar fasciitis. He placed her into a CDX of 1 and assigned a GMFH of 1 because she still had symptoms in her foot joint. The DMA calculated that appellant had a net adjustment of $(1-1) + (1-1) + (n/a) = \text{zero}$, equaling a default grade C. Based on these calculations, he concluded that she had one percent permanent impairment of the right lower extremity and one percent permanent impairment of the left lower extremity.

The Board finds that the DMA applied the appropriate tables and grading schemes of the sixth edition of the A.M.A., *Guides* to Dr. Price's clinical findings. The DMA's calculations were mathematically accurate. There is no medical evidence of record utilizing the appropriate tables of the sixth edition of the A.M.A., *Guides* demonstrating a greater percentage of permanent impairment. The DMA explained that Dr. Price's rating of 25 percent permanent impairment of the bilateral lower extremities was erroneous under the A.M.A., *Guides* because she failed to provide her methodology as to how she reached that figure and because the highest available rating for the diagnosis of plantar fasciitis was two percent of the lower extremity. The Board has held that when the attending physician fails to provide an estimate of impairment conforming to the A.M.A., *Guides*, or does not discuss how he or she arrives at the degree of impairment based on physical findings, the opinion is of diminished probative value in establishing the degree of impairment and OWCP may rely on the opinion of its medical adviser to apply the A.M.A., *Guides* to the findings reported by the attending physician.¹¹ The Board finds that the DMA properly applied the standards of the A.M.A., *Guides* to the physical findings of Dr. Price. The DMA's opinion represents the weight of medical evidence and OWCP properly relied on his assessment of one percent permanent impairment of the right lower extremity and one percent permanent impairment of the left lower extremity.¹²

There is no probative medical evidence of record, in conformance with the sixth edition of the A.M.A., *Guides*, establishing that appellant has a higher rating of permanent impairment. Accordingly, appellant has not established that she is entitled to schedule award compensation greater than that previously received.

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 met her burden of proof to establish more than one percent permanent impairment of the right lower extremity and one percent permanent impairment of the left lower extremity, for which she previously received schedule award compensation.

¹¹ See *L.M.*, Docket No. 12-0868 (issued September 4, 2012); *John L. McClanic*, 48 ECAB 552 (1997).

¹² See *M.T.*, Docket No. 11-1244 (issued January 3, 2012).

ORDER

IT IS HEREBY ORDERED THAT the November 30, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 19, 2019
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