

**United States Department of Labor  
Employees' Compensation Appeals Board**

G.W., Appellant	)	
	)	
and	)	Docket No. 22-1277
	)	Issued: May 22, 2023
U.S. POSTAL SERVICE, POST OFFICE,	)	
Cleveland, OH, Employer	)	
	)	

*Appearances:*  
*Appellant, pro se,*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
ALEC J. KOROMILAS, Chief Judge  
JANICE B. ASKIN, Judge  
JAMES D. MCGINLEY, Alternate Judge

**JURISDICTION**

On August 29, 2022 appellant filed a timely appeal from a May 24, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>2</sup>

**ISSUE**

The issue is whether appellant has met her burden of proof to establish permanent impairment of the left upper extremity, warranting a schedule award.

---

<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> The Board notes that, following the May 24, 2022 decision, OWCP received additional evidence. The Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

## **FACTUAL HISTORY**

On May 5, 2020 appellant, then a 66-year-old postal distributor, filed a traumatic injury claim (Form CA-1) alleging that on May 1, 2020 she fractured her left wrist when she tripped over a pallet while in the performance of duty. She stopped work on that date and returned to light-duty work on June 26, 2020. On July 2, 2020 OWCP accepted the claim for a closed fracture of the lower end of the left radius.

On December 13, 2021 appellant filed a claim for compensation (Form CA-7) for a schedule award.

In a January 5, 2022 development letter, OWCP requested that appellant submit an impairment evaluation from her physician addressing whether she had reached maximum medical improvement (MMI) and provide an impairment rating using the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*).<sup>3</sup> It afforded her 30 days to submit additional medical evidence in support of her schedule award claim. Appellant did not respond within the allotted time.

By decision dated May 24, 2022, 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, warranting a schedule award.

## **LEGAL PRECEDENT**

The schedule award provisions of FECA<sup>4</sup> and its implementing federal regulations<sup>5</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. FECA, however, does not specify the manner in which the percentage of loss of a member shall be determined. 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.<sup>6</sup> For schedule awards after May 1, 2009, the impairment is evaluated under the sixth edition of the A.M.A., *Guides*, published in 2009.<sup>7</sup> The Board has approved the use by OWCP of the A.M.A., *Guides* for the purpose of determining the percentage loss of use of a member of the body for schedule award purposes.<sup>8</sup>

---

<sup>3</sup> A.M.A., *Guides* (6<sup>th</sup> ed. 2009).

<sup>4</sup> 5 U.S.C. § 8107.

<sup>5</sup> 20 C.F.R. § 10.404.

<sup>6</sup> *Id.* at § 10.404(a).

<sup>7</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.5a (March 2017); *see also id.* at Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2, Exhibit 1 (January 2010).

<sup>8</sup> *D.P.*, Docket No. 20-1330 (issued February 19, 2021); *D.S.*, Docket No. 18-1140 (issued January 29, 2019); *Isidoro Rivera*, 12 ECAB 348 (1961).

A claimant has the burden of proof under FECA to establish permanent impairment of a scheduled member or function of the body as a result of his or her employment injury entitling him or her to a schedule award.<sup>9</sup> OWCP's 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 occurred (date of MMI), 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>10</sup> Its procedures further provide that, if a claimant has not submitted a permanent impairment evaluation, it should request a detailed report that includes a discussion of how the impairment rating was calculated.<sup>11</sup> If the claimant does not provide an impairment evaluation and there is no indication of permanent impairment in the medical evidence of file, the claims examiner may proceed with a formal denial of the award.<sup>12</sup>

### ANALYSIS

The Board finds that appellant has not met her burden of proof to establish permanent impairment of the left upper extremity, warranting a schedule award.

On December 13, 2021 appellant filed a claim for a schedule award. In a January 5, 2022 development letter, OWCP requested that she submit a permanent impairment evaluation from her physician addressing the extent of any employment-related permanent impairment using the A.M.A., *Guides*. Appellant did not, however, submit any medical evidence establishing permanent impairment.

As noted above, appellant 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>13</sup> As she has not submitted any medical evidence supporting permanent impairment of a scheduled member or function of the body due to her accepted conditions, the Board finds that she has not met her burden of proof.<sup>14</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 permanent impairment.

---

<sup>9</sup> *D.P., id.*; *M.G.*, Docket No. 19-0823 (issued September 17, 2019); *D.F.*, Docket No. 18-1337 (issued February 11, 2019); *Tammy L. Meehan*, 53 ECAB 229 (2001).

<sup>10</sup> *Supra* note 7 at Chapter 2.808.5 (March 2017).

<sup>11</sup> *Id.* at Chapter 2.808.6a (March 2017).

<sup>12</sup> *Id.* at Chapter 2.808.6c (March 2017).

<sup>13</sup> *See D.J.*, Docket No. 20-0017 (issued August 31, 2021); *B.V.*, Docket No. 17-0656 (issued March 13, 2018); *C.B.*, Docket No. 16-0060 (issued February 2, 2016); *P.L.*, Docket No. 13-1592 (issued January 7, 2014).

<sup>14</sup> *See A.M.*, Docket No. 21-1413 (issued March 28, 2022).

**CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish permanent impairment of the left upper extremity, warranting a schedule award.

**ORDER**

**IT IS HEREBY ORDERED THAT** the May 24, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 22, 2023  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

James D. McGinley, Alternate Judge  
Employees' Compensation Appeals Board