

File Number:
KC-CA-181-D-8

U.S. DEPARTMENT OF LABOR

OFFICE OF WORKERS' COMP PROGRAMS
PO BOX 8300 DISTRICT 12 DEN
LONDON, KY 40742-8300
Phone: (303) 202-2500

~~October 25, 2012~~

Date of Injury:
Employee:

Dear Mr. :

Under the schedule award provisions of the Federal Employees' Compensation Act (FECA) at 5 U.S.C. 8107, the Office of Workers' Compensation Programs makes the following:

AWARD OF COMPENSATION

1. Degree and Nature of Permanent Impairment: 16% right lower extremity (less 11% previously awarded on 08/10/1989) and 37% left lower extremity (less 4% previously awarded on 08/10/1989)
2. Date of Maximum Medical Improvement: 08/23/2012
3. Period of Award: 08/23/2012 to 09/28/2014
4. Number of Weeks of Compensation: 109.44 (766.08 days)
5. Weekly Pay: \$642.80 X Compensation Rate: 75% = \$482.10
6. Effective Date of Pay Rate: 03/24/1994
7. After Cost-of-Living Adjustments, Your Weekly Compensation is: \$731.25
8. Your Payment and the Period Covered: \$ 8163.39 from 08/23/2012 - 10/20/2012
9. Your Continuing Payment each Four Weeks: \$2,925.00

Payment of your award ends when you have been paid for the last day shown in item 3 above.

Section 8107 of the Federal Employees' Compensation Act (FECA) and its implementing regulations (20 CFR 10.404; see also 20 CFR Part 10) set forth the number of weeks of compensation to be paid for the permanent loss or loss of use of specified members, functions and organs of the body known as permanent impairment. The commencement period of the award is usually the date of maximum medical improvement, the date that the physical condition of the injured member has stabilized and is not expected to improve further.

The FECA, however, does not in most instances specify the manner by which the percentage loss of a member, function or organ shall be determined. To ensure consistent results and equal justice under the law, good administrative practice requires the use of uniform standards applicable to all claimants. The implementing regulations have adopted the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, as the appropriate standard for evaluating schedule losses. Currently, schedule awards are calculated using the Sixth Edition of the AMA *Guides*.

If you have a disability (a substantially limiting physical or mental impairment), please contact our office/claims examiner for information about the kinds of help available, such as communication assistance (alternate formats or sign language interpretation), accommodations and modifications.

The percentage of permanent impairment noted above was based on the medical findings and reports of Dr. _____ dated _____ and _____ and the report of the District Medical Advisor (DMA) dated _____. Copies of these reports are provided for your reference.

The percentage of permanent impairment shown above was calculated by a District Medical Advisor (DMA), who applied the Guides to the medical findings provided by the second opinion specialist and provided an explanation for the calculation. The impairment percentage above differs from the percentage provided by the second opinion specialist.

The 10/17/2012 DMA report concludes that the final right lower extremity impairment is 16% and the final left lower extremity impairment is 37%.

The DMA report indicates in part:

"FINAL % RIGHT LOWER EXTREMITY IMPAIRMENT

The final RIGHT lower extremity impairment is equal to the combination of impairment's using the combined values chart (on page 604 of the AMA Guides 6th Edition). The combined impairment for the Right LE (L3 (3 % LEI), L4 (5 % LEI), L5 (5% LED and S1(3% LED) is equal to 16% LEI.

FINAL % LEFT LOWER EXTREMITY IMPAIRMENT

The final Left lower extremity impairment is equal to the combination of impairment's using the combined values chart (on page 604 of the AMA Guides 6th Edition). The combined impairment for the Left LE (L3 (8 % LEI), L4 (14 % LEI), L5 (14 % LEI) and S1(8 % LED) is equal to 37% LEI."

Pages 2 through 31 of the 10/17/2012 DMA report elaborate on the calculation of the final impairment ratings. A complete copy of the District Medical Advisor's calculation, which explains the discrepancy, is enclosed. The calculation is proper and in accordance with the Guides.

In reviewing the evidence, the District Medical Advisor has determined that the second opinion specialist incorrectly applied the Guides to the findings on examination.

The date of maximum medical improvement was determined by the DMA based on the medical evidence of record. The weight of the medical evidence regarding the percentage of impairment is being given to the District Medical Advisor because the DMA _____ the Guides to the examination findings. The findings of the second opinion specialist and DMA were used instead of those provided by the treating physician because: You did not submit an impairment rating from a treating physician that was calculated appropriately under the Sixth Edition American Medical Association (AMA) Guides to the Evaluation of Permanent Impairment

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If you disagree with this decision, you should carefully review the attached appeal rights, and pursue whichever avenue is appropriate to your situation.

Sincerely,

Y Canner (es)
Yvonne Canner
Senior Claims Examiner

Enclosures: Appeal Rights
Important Information
Medical Reports