

File Number:
CA-181-D-S

U.S. DEPARTMENT OF LABOR

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September 03, 2020

Date of Injury:
Employee:

Dea

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: 5% Left Upper Extremity (shoulder)
2. Date of Maximum Medical Improvement:
3. Period of Award:
4. Number of Weeks of Compensation: 15.6 weeks (fraction of a day)
5. Weekly Pay: \$847.19 X Compensation Rate: 75 % = \$646.75
6. Effective Date of Pay Rate:
7. After Cost-of-Living Adjustments, Your Weekly Compensation is: \$646.75
8. Your Payment and the Period Covered: \$10089.30 from

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

Section 8107 of the FECA and its implementing regulations 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. 20 C.F.R. 10.404; see also 20 C.F.R. Part 10. The commencement period of the schedule 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 and are in need of communication assistance (such as alternate formats or sign language interpretation), accommodation(s) and/or modification(s), please contact OWCP.

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

The percentage of impairment shown above was calculated by a District Medical Advisor, who applied the Guides to the medical findings provided by your treating physician and determined the date of maximum medical improvement based on the medical evidence of record. The impairment percentage above differs from the percentage initially provided by your treating physician. Your physician Dr. [redacted] initially provided a 10 % left upper extremity rating on his [redacted] report. Upon review of the medical evidence, the DMA determined that Dr. [redacted] did not provide an explanation for the impairment calculation of 10% left upper extremity.

The DMA calculated the impairment based on the Diagnosis Based Impairment (DBI) method for labral tear and the Shoulder Regional Grid (Table 15-5/Page 404) which allows for a maximum of 5%. The DMA provided a rating of 5 % based on the DBI method and opined the ROM Upper Extremity Impairment is excluded from this analysis as there is insufficient data to allow for a rating with the ROM method. The DMA indicates Dr. [redacted] did not document all planes of left shoulder motion.

The [redacted] DMA report was forwarded to Dr. [redacted] for review and comment on [redacted] Dr. [redacted] reviewed the report or [redacted] and commented "I am in agreement with records review performed by Dr. [redacted] I agree with the impairment rating being 5% for labral tear based upon sixth edition.

In reviewing the evidence, the District Medical Advisor has determined that your physician initially incorrectly applied the Guides to the findings on examination. Subsequently, Dr. [redacted] reviewed the DMA's finding on [redacted] and agrees with the DMA's rating of 5 % LUE (shoulder). A copy of the District Medical Advisor's calculation, which explains this discrepancy, is attached. The weight of the medical evidence regarding the percentage of impairment is being given to the District Medical Advisor because he correctly applied the Guides to the examination findings.

IMPORTANT INFORMATION

Please read the following information carefully. Keep this award letter so you can refer to it when necessary. If you have questions concerning this award, write to the address shown in the letterhead.

- 1. HOW COMPENSATION IS PAID** - Direct deposit is the fastest and most secure way to receive your award payments. We strongly encourage you to submit a **Standard Form 1199A**, which will enable us to direct deposit your payment(s) into your bank. Your first payment will be issued within 30 days. If further payments are due, they will be made every four weeks until the expiration of the award.
- 2. LUMP SUM PAYMENTS** - If you are currently working, or if you are receiving retirement benefits from the Office of Personnel Management, you may be entitled to a "lump-sum" payment of your schedule award. Please contact the District Office at the address listed on the first page of this letter and specifically request information concerning this option.
- 3. CHANGE OF ADDRESS** - Notify this office immediately of any change of address either for correspondence or for direct deposit. Notification must be in writing, signed by you, to the address

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shown on the first page of this letter. Include your file number, your old address, and your new address.

4. CHANGE IN STATUS OF DEPENDENTS - If your award is paid at the augmented rate of 3/4 because you have one or more dependents, you are required to provide written notification immediately of any change in status of your dependents, to the address on the first page of this letter. The notice must be signed by you and include your file number, the name of the dependent whose status changed, the effective date of the change, and the nature of the change in status. If you originally claimed only one dependent, and there is a change in the status of your sole dependent, do not cash any checks you receive after the change in status of that dependent. Return the checks promptly for adjustment by this Office.

5. RETURN TO WORK - You may work or receive retirement benefits from the Office of Personnel Management (OPM) during the period of this award without any effect on your schedule award payments.

6. SOCIAL SECURITY DISABILITY BENEFITS - Please contact your local Social Security Office regarding this award if you are receiving or have filed for Social Security Disability Benefits.

7. VA BENEFITS - You are required to notify this office if you have received, or are receiving any VA benefits for the same part of the body.

8. EXPIRATION OF AWARD - After the ending date of this award noted in item 3, your entitlement to compensation will be based solely on disability for work resulting from the accepted injury. You may claim continuing compensation by submitting evidence showing that the accepted injury prevents you from performing the kind of work you were doing when injured and from earning comparable wages. Please note that compensation for disability cannot be paid for any period during which you receive retirement benefits from OPM.

9. ATTORNEY AND REPRESENTATIVE FEES - Please be mindful of the following regarding fees for representative services:

- In each case where a representative's fee is desired, an application for approval of the fee must be submitted to OWCP.
- Fees collected prior to OWCP approval may constitute a misdemeanor under 18 U.S.C. § 292.
- Contingency fees are not allowed in any form. See 20 C.F.R. § 10.702 (a). Further, a fee will not be approved merely on the basis of a percentage of the amount of compensation awarded. All fees claimed for services rendered must be calculated on an hourly basis.
- The ultimate collection of the fee is a matter between the representative and the claimant.

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

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Sincerely,

Division of Federal Employees' Compensation

Enclosures: Appeal Rights

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