File Number:
CA-6060-O-NO

U S. DEPARTMENT OF LABOR

RECEIVED JAN 1 1 2013

OFFICE OF WORKERS' COMP PROGRAMS
PO BOX 8300 DISTRICT 11 KCM
LONDON, KY 40742-8300
Phone: (816) 268-3040

January 7, 2013

Date of Injury:
Employee:

PAUL H. FELSER ESQ.
POST OFFICE 10267
SAVANNAH, GA 31412

Dear Sir:

According to our records you are the authorized representative in the above case. The attached correspondence dated 1/7/2013 is directed to you for you to handle in this capacity.

If the correspondence indicates a response is required, it is expected you will arrange for it. If you have any questions, please contact us at the above address.

Sincerely,

Penelope Schultz
Senior Claims Examiner

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.

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

U.S. DEPARTMENT OF LABOR

OFFICE OF WORKERS' COMP PROGRAMS
PO BOX 8300 DISTRICT 11 KCM
LONDON, KY 40742-8300
Phone: (816) 268-3040

January 7, 2013

Date of Injury:
Employee:

Dear Ms :

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: 11% OF RIGHT UPPER EXTREMITY
2. Date of Maximum Medical Improvement: 10/16/2012
3. Period of Award:11/18/2012 to 07/16/2013
4. Number of Weeks of Compensation: 34.32
5 Weekly Pay: $898.79 X Compensation Rate: 75 % = $674.09
6 Effective Date of Pay Rate: 11/10/2010
7 After Cost-of-Living Adjustments, Your Weekly Compensation is: $695.75
8 Your Payment and the Period Covered: $ 5566.00 for 11/18/2012 - 01/12/2013
9 Your Continuing Payment each Four Weeks: $2783 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.

A schedule award is payable consecutively but not concurrently with an award for wage loss for the same injury Therefore, the starting date of the schedule award has been adjusted to 11/18/2012 because you received compensation for disability through 11/17/2012 The percentage of permanent impairment noted above was based on the medical findings and report of Dr dated 10/17/2012 and the report of the District Medical Advisor (DMA) dated 12/17/2012 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 calculation is proper and in accordance with the Guides The date of maximum medical improvement was determined by the DMA based on the medical evidence of record The findings of the second opinion specialist and DMA were used instead of those provided by the treating physician because the DMA stated that the report from dated 04/26/2012 contained diagnosis based impairment ratings for a right rotator cuff tear and adhesive capsulitis The DMA noted that page 387 of the 6th edition (2nd printing: April, 2009) AMA Guides to the Evaluation of Permanent Impairment precluded offering 2 diagnosis based estimates The DMA stated it was also not acceptable to offer a right styloid tenosynovitis rating as well as a cubital tunnel syndrome rating for the same reason (page 387)

The DMA noted the ratings for your right left upper extremity provided by the were not acceptable due to a note dated 03/26/2012 by Dr associated with indicated that he wished to obtain an EMG nerve conduction study and he believed that you required surgical management for a left carpal tunnel syndrome and a left cubital tunnel syndrome The DMA stated there would be no way, that if you had active entrapment neuropathies at the elbow and wrist level according to the medical report dated 03/26/2012 by Dr , that a rating at the left elbow and left wrist level for left lateral epicondylitis and a left wrist enthesopathy offered by Dr on 04/26/2012 could be accepted

The DMA noted it would not be medically possible to rate pain and discomfort at the wrist and elbow levels due to the accepted conditions where there is medical documentation one month before the report from the office of Dr indicating that your symptoms at the elbow and wrist level are due to entrapment neuropathies rather than left lateral epicondylitis and a left wrist enthesopathy

The DMA stated that you needed to be seen by a physician skilled in the use of the 6th edition (2nd printing; April, 2009) AMA Guides to the Evaluation of Permanent Impairment to consider impairment ratings for the accepted conditions affecting the right upper extremity, right hip, and impairment ratings for the accepted at the left elbow and left wrist level if maximum medical improvement had actually occurred and there were no other diagnoses that would impact upon the consideration of signs, symptoms, and diagnostic studies with reference to the left upper extremity conditions accepted by OWCP

The DMA noted that the date of the evaluation, 10/16/2012, when your signs, symptoms and diagnostic studies were discussed by Dr was used to establish your date of maximum medical improvement The DMA stated the evaluator indicated that you achieved maximum medical improvement in 2009 but cited no history or examination findings from that time period that would support that maximum medical improvement was achieved in that time period

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The DMA noted that in the reports dated 10/17/2012 and the addendum dated 10/30/2012, the impairment ratings using the 6th edition (2nd printing; April, 2009) AMA Guides to the Evaluation of Permanent Impairment were: 7% for right shoulder, 1-2% for right elbow, 1% for right carpal tunnel syndrome and 1% for partial tear of right triangular fibrocartilage totaling 10-11%

The DMA stated that Dr. ultimately recommended an 11% right upper extremity impairment which was acceptable based on the 6th edition (2nd printing; April, 2009) AMA Guides The DMA noted that even using the Combined Values that the impairment rating was 11% of the right upper extremity

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

Sincerely,

Penelope Schultz
Senior Claims Examiner

Enclosures: Appeal Rights
Important Information
Medical Reports of DMA and Dr. Ichtertz

PAUL H FELSER
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POST OFFICE 10267
SAVANNAH, GA 31412

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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 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

Case Number:
Employee:
Date: January 7, 2013

FEDERAL EMPLOYEES' COMPENSATION ACT APPEAL RIGHTS

If you disagree with the attached decision, you have the right to request an appeal. If you wish to request an appeal, you should review these appeal rights carefully and decide which appeal to request. There are 3 different types of appeal as outlined below. YOU MAY ONLY REQUEST ONE TYPE OF APPEAL AT THIS TIME.

Place an "X" on the attached form indicating which appeal you are requesting. Complete the information requested at the bottom of the form. Place the form on top of any material you are submitting. Then mail the form with attachments to the address listed for the type of appeal that you select. Always write the type of appeal you are requesting on the outside of the envelope ("HEARING REQUEST", "RECONSIDERATION REQUEST", or "ECAB REVIEW").

NOTE - If you have a substantially limiting physical or mental impairment, Federal disability nondiscrimination law gives you the right to receive help from DFEC in the form of communication assistance, accommodation and modification to aid you in the FECA claims process. For example, we will provide you with copies of documents in alternate formats, communication services such as sign language interpretation, or other kinds of adjustments or changes to account for the limitations of your disability. Please contact the appropriate office below to ask about this assistance.

1. HEARING: If your injury occurred on or after July 4, 1966, and you have not requested reconsideration, as described below, you may request a Hearing. To protect your right to a hearing, any request for a hearing must be made before any request for reconsideration by the District Office (5 U.S.C. 8124(b)(1)). **Any hearing request must also be made in writing, within 30 calendar days after the date of this decision, as determined by the postmark of your letter.** (20 C.F.R. 10.616). There are two forms of hearings, both conducted by a hearing representative. You may request either one or the other, but not both.

a. **Oral Hearing.** An informal oral hearing is conducted at a location near your home or by teleconference/videoconference. You may present oral testimony and written evidence in support of your claim. Any person authorized by you in writing may represent you at an oral hearing. At the discretion of the hearing representative, an oral hearing may be conducted by teleconference or videoconference.

b. **Review of the Written Record.** You may submit additional written evidence, which must be sent with your request for review. You will not be asked to attend or give oral testimony.

2. RECONSIDERATION: If you have additional evidence or legal argument that you believe will establish your claim, you may request, in writing, that OWCP reconsider this decision. **The request must be signed, dated and received within one calendar year of the date of the decision.** It must clearly state the grounds upon which reconsideration is being requested, and be accompanied by relevant evidence not previously submitted, such as medical reports, sworn statements, or a legal argument not previously made, which apply directly to the issue addressed by this decision. A person other than those who made this decision will reconsider your case. (20 C.F.R. 10.605-610)

3. REVIEW BY THE EMPLOYEES' COMPENSATION APPEALS BOARD (ECAB): If you believe that all available evidence that would establish your claim has already been submitted, you have the right to request review by the ECAB (20 C.F.R. 10.625). The ECAB will review only the evidence received prior to the date of this decision (20 C.F.R. Part 501). **Request for review by the ECAB must be made within 180 days from the date of this decision.** More information on the new Rules is available at www.dol.gov/ecab

Case Number:
Employee:
Date: January 7, 2013

APPEAL REQUEST FORM

If you decide to appeal this decision, read these instructions carefully. You must specify which procedure you request by checking one of the options listed below. Place this form on top of any materials you submit. **Be sure to mail this form, along with any additional materials, to the appropriate address. YOU MAY ONLY REQUEST ONE TYPE OF APPEAL AT THIS TIME.**

_____ ORAL HEARING

Depending on your geographical location, the issue involved in your case, the number of hearing requests in your area, and at the discretion of the hearing representative, we may expedite your appeal by providing you a telephone hearing or videoconference. **Please check here if you would prefer a telephone hearing. _____**

_____ REVIEW OF THE WRITTEN RECORD

For each of these options, you must submit this form within 30 calendar days of the date of the decision. You may also submit additional written evidence with your request. Do not mail this appeal request to the District Office. **You must mail your request to:**

Branch of Hearings and Review
Office of Workers' Compensation Programs
P. O. Box 37117
Washington, DC 20013-7117

_____ RECONSIDERATION:

Your request must be signed, dated and received by OWCP within 1 calendar year of the date of the decision. You must state the grounds upon which reconsideration is being requested. Your request must also include relevant new evidence or legal argument not previously made. **Mail your request to:**

DOL DFEC Central Mailroom
P. O. Box 8300
London, KY 40742

_____ ECAB APPEAL:

Submit this form within 180 calendar days of the date of the decision. No additional evidence after the date of OWCP's decision will be reviewed. To expedite the processing of your ECAB appeal, you may include a completed copy of the AB 1 form used by ECAB to docket appeals available on the Department of Labor Web Site at www.dol.gov/ecab. Do not mail this appeal request to the District Office. **You must mail your request to:**

Employees' Compensation Appeals Board
200 Constitution Avenue NW, Room S-5220
Washington, DC 20210

SIGNATURE_____TODAY'S DATE_____
PRINTED NAME_____DECISION DATE_____
ADDRESS_____PHONE_____
CITY _____STATE_____ZIP_____