

RECEIVED JUN 21 2019

U.S. DEPARTMENT OF LABOR

OFFICE OF WORKERS' COMP PROGRAMS
PO BOX 8300 DISTRICT 6 JAC
LONDON, KY 40742-8300
Phone: (904) 366-0100

June 18, 2019

Date of Injury:
Employee:

Dear

I am writing with regard to the decision by the Branch of Hearings and Review dated 02/05/2019 which instructed the Office to clarify the degree of permanent impairment of your right arm and issue a de novo decision based upon the results. Therefore:

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: 28% permanent partial impairment of the right arm (less 5% previously paid)
2. Date of Maximum Medical Improvement: 04/25/2018
3. Period of Award: 04/25/2018 to 09/10/2019
4. Number of Weeks of Compensation: 71.76 (502.32 days, fraction of a day)
5. Weekly Pay: \$947.98 X Compensation Rate: 75 % = \$710.99
6. Effective Date of Pay Rate: 08/24/2015
7. After Cost-of-Living Adjustments, Your Weekly Compensation is: \$754.50
8. Your Payment and the Period Covered: \$53,188.57 from 04/25/2018 to 05/25/2018. (See attached payment history for a detail of payments previously issued)
9. Your Continuing Payment each Four Weeks: \$3018.00

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

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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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*.

The percentage of permanent impairment noted above was based on the medical findings and report of Dr. [redacted] dated 04/25/2018 with a supplemental report dated 05/01/2019 and the report of the District Medical Advisor (DMA) dated 06/07/2019. 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 Dr. [redacted] and determined the date of maximum medical improvement based on the medical evidence of record. The impairment percentage above differs from the percentage provided by Dr. [redacted]. In reviewing the evidence, the District Medical Advisor has determined that Dr. [redacted] incorrectly applied the *Guides* to the findings on examination. A copy of the District Medical Advisors 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 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

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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.

June 18, 2019

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Sincerely,

Division of Federal Employees' Compensation

Enclosures: Appeal Rights
Payment History
Report of Dr. Jeffrey Fried dated 04/25/2018
Supplemental report dated 05/01/2019
Report of the DMA dated 06/07/2019.

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