

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of CATHERINE S. PATTERSON and U.S. POSTAL SERVICE,  
POST OFFICE, Washington, DC

*Docket No. 99-228; Submitted on the Record;  
Issued April 26, 2000*

---

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
BRADLEY T. KNOTT

The issue is whether appellant is entitled to a schedule award.

On July 8, 1990 appellant, a sorting machine clerk, filed a claim asserting that she sustained a back injury while in the performance of her duties. The Office of Workers' Compensation Programs accepted her claim for an aggravation of degenerative lumbar spine disease and an aggravation of coronary heart disease.

On January 15, 1997 appellant filed a claim for a schedule award. In support thereof, she submitted a March 10, 1997 report from Dr. Roger Raiford, an orthopedic surgeon. He reported that magnetic resonance imaging scans showed severe degenerative disc disease with facet arthritis at different levels, especially at the affected L5-S1 level. Dr. Raiford determined that appellant had a seven percent impairment of the whole person secondary to her injury but no diagnosis or ratable impairment of the lower extremities.

In a decision dated September 2, 1998, the Office denied appellant's claim for a schedule award.

The Board finds that the evidence fails to establish that appellant is entitled to a schedule award.

The schedule award provisions of the Federal Employees' Compensation Act<sup>1</sup> and its implementing federal regulations<sup>2</sup> provide for payment of compensation for the permanent loss or loss of use of specified members, functions and organs of the body. No schedule award is payable for a member, function or organ of the body not specified in the Act or in the regulations.<sup>3</sup> Because neither the Act nor the regulations provide for the payment of a schedule

---

<sup>1</sup> 5 U.S.C. § 8107(a).

<sup>2</sup> 20 C.F.R. § 10.304.

<sup>3</sup> *William Edwin Muir*, 27 ECAB 579 (1976) (this principle applies equally to body members that are not

award for the permanent loss of use of the back,<sup>4</sup> no claimant is entitled to such an award.<sup>5</sup> Amendments to the Act modified the schedule award provisions to provide for an award for permanent impairment to a member of the body covered by the schedule regardless of whether the cause of the impairment originated in a scheduled or nonscheduled member. As the schedule award provisions of the Act include the extremities, a claimant may be entitled to a schedule award for permanent impairment to an upper or lower extremity even though the cause of the impairment originated in the spine.<sup>6</sup>

Dr. Raiford's report of March 10, 1997 fails to support a permanent impairment to a member of the body covered by the schedule. Although appellant had severe degenerative disc disease with facet arthritis at different levels, he reported that appellant had no diagnosis or ratable impairment of the lower extremities. Because no claimant may receive a schedule award for the permanent loss of use of the back and because the medical evidence fails to establish a permanent impairment to the lower extremities, the Office properly denied appellant's claim for a schedule award.

The September 2, 1998 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.  
April 26, 2000

Michael J. Walsh  
Chairman

David S. Gerson  
Member

Bradley T. Knott  
Alternate Member

---

enumerated in the schedule provision as it read before the 1974 amendment and to organs that are not enumerated in the regulations promulgated pursuant to the 1974 amendment).

<sup>4</sup> The Act itself specifically excludes the back from the definition of "organ." 5 U.S.C. § 8101(19).

<sup>5</sup> *E.g., Timothy J. McGuire*, 34 ECAB 189 (1982).

<sup>6</sup> *Rozella L. Skinner*, 37 ECAB 398 (1986).