

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOE D. BROWN and TENNESSEE VALLEY AUTHORITY,
WIDOWS CREEK FOSSIL PLANT, Stevenson, AL

*Docket No. 00-1684; Submitted on the Record;
Issued March 21, 2001*

DECISION and ORDER

Before DAVID S. GERSON, A. PETER KANJORSKI,
PRISCILLA ANNE SCHWAB

The issue is whether appellant is entitled to a schedule award for his employment-related contact dermatitis.

On November 17, 1997 appellant, then a 54-year-old maintenance mechanic/boilermaker, filed a claim asserting that the dermatitis on his hands, feet and underarms resulted from his federal employment. The Office of Workers' Compensation Programs accepted his claim for the condition of contact dermatitis.

On September 15, 1999 appellant filed a claim for a schedule award. On November 1, 1999 the Office advised that dermatitis cases usually do not cause a loss of motion or function in a limb. However, if this had occurred, the Office required a medical report advising of the permanent impairment of the limbs according to the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4th ed. 1993).

In a decision dated January 13, 2000, the Office denied appellant's claim for a schedule award. The Office received no response from appellant and there was no statutory provision for the payment of a schedule award for the accepted condition of contact dermatitis.

The Board finds that appellant is not entitled to a schedule award for his employment-related contact dermatitis.

The schedule award provisions of the Federal Employees' Compensation Act¹ and the implementing regulations² 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

¹ 5 U.S.C. § 8107(a).

² 20 C.F.R. § 10.404.

for a member, function or organ of the body that is not specified in the Act or in the implementing regulations.³

The Act itself specifies the following members: arm, leg, hand, foot, thumb and finger. The Act also specifies loss of hearing and loss of vision and provides compensation for the loss of an eye. The Act does not specify the skin.

Section 8107(c)(22) of the Act provides for payment of compensation for permanent loss or loss of use of “any other important external or internal organ of the body as determined by the Secretary” of Labor.⁴ The Secretary of Labor has made such determinations, and pursuant to section 8107(c)(22) of the Act has added the following organs to the compensation schedule: breast, kidney, larynx, lung, penis, testicle, tongue, ovary, uterus/cervix and vulva/vagina.⁵ The Secretary has made no provision in the implementing regulations for the skin.

While there is no statutory or regulatory authority for the payment of a schedule award for impairment to the skin, a claimant may receive a schedule award for permanent impairment to a scheduled member of the body regardless of whether the cause of the impairment originated in a scheduled or nonscheduled member.⁶ The Office advised appellant that, if his physician believed that dermatitis had caused an impairment to a limb, the physician should submit a medical report rating of the permanent impairment of the limb according to the A.M.A., *Guides*. Having received no such report, the Office properly denied appellant’s claim.⁷

³ *Thomas E. Montgomery*, 28 ECAB 294 (1977).

⁴ 5 U.S.C. § 8107(c)(22).

⁵ 20 C.F.R. § 10.404(a).

⁶ A claimant may thus 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, which is a nonscheduled member. *Rozella L. Skinner*, 37 ECAB 398 (1986).

⁷ A claimant seeking compensation under the Act has the burden of establishing the essential elements of his claim by the weight of the reliable, probative and substantial evidence. *Nathaniel Milton*, 37 ECAB 712 (1986); *Joseph M. Whelan*, 20 ECAB 55 (1968) and cases cited therein.

The January 13, 2000 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
March 21, 2001

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member

Priscilla Anne Schwab
Alternate Member