Schedule awards II

Last month's column provided basic information regarding schedule awards, with a focus on how to obtain the necessary medical report, and how the Office of Workers' Compensation Programs (OWCP) calculates the dollar amount. The regulations regarding schedule awards, however, are complex. In addition, there are many misconceptions about them. This column explains additional details about schedule awards, with the goal of dispelling those misconceptions and providing useful information. It should be read in conjunction with last month's column.

One of the most common mistaken beliefs about schedule awards is that they constitute final settlements or payouts that end further on-the-job injury benefits. This error probably is due to the fact that some state workers' compensation systems do provide for lump-sum payouts that constitute final settlements, after which no further benefits are payable. Schedule awards paid by OWCP do not constitute a settlement or final payout. They do not in any way end the right to continue receiving other OWCP benefits, such as payment for medical bills, reimbursement of transportation expenses for travel to medical appointments, wage-loss compensation benefits, etc.

Additional common misconceptions concern the relationship between retirement and schedule awards. Some mistakenly believe that retirement is a bar to receiving a schedule award. Retirement, in and of itself, has no effect on an employee's right to a schedule award. Others incorrectly believe that it is a good idea to wait until retirement to pursue a schedule award. Generally, if an injured employee is working, either without restrictions or on limited duty, there is no logical reason to wait until retirement to pursue a schedule award. Instead, unless an employee is drawing wage-loss compensation, it is normally in the employee's interest to pursue a schedule award when maximum medical improvement (MMI) is reached.

Schedule awards are paid out in weeks of compensation. The reason they are called schedule awards is that 5 USC 8107, the relevant provision of the Federal Employees' Compensation Act (FECA), is titled "Compensation schedule," and sets out a schedule of body parts with corresponding number of weeks. For instance:

- Arm lost, 312 weeks' compensation
- Leg lost, 288 weeks' compensation
- Hand lost, 244 weeks' compensation

The general rule is that schedule awards may not be received concurrently with wage-loss compensation, but may be received concurrently with actual wages or with retirement benefits. There is an exception to the prohibition of simultaneous receipt of wage-loss compensation and a schedule award. If an employee has a job-related injury that causes impairment in one body part (that entitles him or her to a schedule award) and at the same time has a different job related injury to a different body part that is disabling, both wage-loss compensation for the disability and a schedule award for the impairment may be paid concurrently.

There is also an important, and dangerous, limitation that arises when employees are entitled to Social Security disability benefits. Employees covered under the Federal Employees' Retirement System (FERS) are required to apply for Social Security disability benefits in order to obtain FERS disability retirement. Social Security regulations provide for dollar-for-dollar offset of Social Security disability benefits if an employee receives workers' compensation disability benefits. Social Security considers OWCP Schedule Awards as disability benefits, and will deduct the full amount from any Social Security disability benefits due. Moreover, Social Security will report the full amount of the deduction to the IRS as taxable income, even though it never was paid to the injured worker. As a result, NALC members covered by FERS who may be entitled to a schedule award and concurrently entitled to disability retirement should seek advice from their branch OWCP specialist or national business agent's office.

Schedule awards are paid for a certain number of weeks, calculated by multiplying the percentage of impairment of a body part (determined by the rating physician) times the number of weeks set out in the schedule in the FECA for that body part. Each week of the schedule award is paid at the employee's compensation rate, which is weekly salary times 2/3 or 3/4, depending on whether the employee is single with no dependents (2/3) or married or otherwise has one or more dependents (3/4).

The starting date is determined by the date of Maximum Medical Improvement. Employees do have the right to request the schedule award in a lump sum. OWCP has discretion to grant or deny such a request. When it grants a request for a lump-sum payment, it discounts or reduces the total payment in accordance with standard financial practices. OWCP's *Procedure Manual* explains the discount as equal to the present value of all future payments of compensation computed at a 4 percent true discount rate compounded annually.

The NALC stands ready to assist its members who have suffered on-the-job injuries in obtaining the benefits they may be entitled to, including schedule awards.