

## § 30.902

## 20 CFR Ch. I (4–1–10 Edition)

benefit determinations, OWCP will only consider medical reports from physicians who are certified by the relevant medical board and who satisfy any additional criteria determined by OWCP to be necessary to qualify to perform impairment evaluations under Part E, including any specific training in use of the AMA's *Guides*, specific training and experience related to particular conditions and other objective factors.

(c) OWCP will establish criteria based upon objective factors such as training and certification that must be met by physicians preparing impairment evaluations in order for an impairment evaluation to be considered in determining an impairment award. Such criteria shall be made available to claimants and the public by OWCP.

### **§ 30.902 How will OWCP calculate the amount of the award of impairment benefits that is payable under Part E?**

OWCP will multiply the percentage points of the minimum impairment rating by \$2,500 to calculate the amount of the award.

#### **MEDICAL EVIDENCE OF IMPAIRMENT**

### **§ 30.905 How may an impairment evaluation be obtained?**

(a) Except as provided in paragraph (b) of this section, OWCP may request that an employee undergo an evaluation of his or her permanent impairment that specifies the percentage points that are the result of the employee's covered illness or illnesses. To be of any probative value, such evaluation must be performed by a physician who meets the criteria OWCP has identified for physicians performing impairment evaluations for the pertinent covered illness or illnesses in accordance with the AMA's *Guides*.

(b) In lieu of submitting an evaluation requested by OWCP under paragraph (a) of this section, an employee may obtain an impairment evaluation at his own initiative and submit it to OWCP for consideration. Such an evaluation will be deemed to have sufficient probative value to be considered in the adjudication of impairment benefits by OWCP only if:

(1) The evaluation was performed by a physician who meets the criteria identified by OWCP for the covered illness or illnesses in question;

(2) The evaluation was performed no more than one year before the date that it was received by OWCP; and

(3) The evaluation conforms to all applicable requirements set out in this part.

### **§ 30.906 Who will pay for an impairment evaluation?**

(a) OWCP will pay for one impairment evaluation obtained by an employee if it meets the criteria set out in § 30.905(b), unless it was performed by a physician prior to the date that the claim for Part E benefits is filed, or obtained for a claim in which OWCP finds that the employee did not contract a covered illness. At its discretion, OWCP may direct that the employee undergo additional evaluations. OWCP will pay for any such additional evaluations and will reimburse the employee for any reasonable and necessary costs incident to the evaluations, as described in §§ 30.404 and 30.412 of this part.

(b) Except for one impairment evaluation obtained pursuant to § 30.905(b) and meeting the criteria set out in § 30.905(b)(1), (2) and (3), the employee must pay for any impairment evaluations not directed by OWCP.

### **§ 30.907 Can an impairment evaluation obtained by OWCP be challenged prior to issuance of the recommended decision?**

(a) An employee may submit arguments challenging an impairment evaluation, and/or additional medical evidence of impairment, before the district office issues a recommended decision on his or her claim. However, the district office will not consider an additional impairment evaluation, even if it differs from the impairment evaluation obtained under §§ 30.905 or 30.906, if it does not meet the criteria listed in § 30.905(b)(1), (2) and (3).

(b) If the district office obtains an additional impairment evaluation that differs from the impairment evaluation obtained under §§ 30.905 or 30.906, the district office will base its recommended determinations regarding

impairment upon the evidence it considers to have the greatest probative value, after evaluating all relevant evidence of impairment in the record, including evidence from directed impairment evaluations and referee impairment evaluations, if any, that it deems necessary pursuant to §§30.410 and 30.411 of this part.

**§30.908 How will the FAB evaluate new medical evidence submitted to challenge the impairment determination in the recommended decision?**

(a) If an employee submits an additional impairment evaluation that differs from the impairment evaluation relied upon by the district office, the FAB will not consider the additional impairment evaluation if it does not meet the criteria listed in §30.905(b)(1), (2) and (3).

(b) The employee shall bear the burden of proving that the additional impairment evaluation submitted is more probative than the evaluation relied upon by the district office to determine the employee's recommended minimum impairment rating.

(c) If an employee submits an additional impairment evaluation that differs from the impairment evaluation relied upon by the district office, the FAB will review all relevant evidence of impairment in the record, and will base its determinations regarding impairment upon the evidence it considers to be most probative. The FAB will determine the minimum impairment rating after it has evaluated all relevant evidence and argument in the record.

**RATABLE IMPAIRMENTS**

**§30.910 Will an impairment that cannot be assigned a numerical percentage using the AMA's Guides be included in the impairment rating?**

(a) An impairment of an organ or body function that cannot be assigned a numerical impairment percentage using the AMA's *Guides* will not be included in the employee's impairment rating.

(b) A mental impairment that does not originate from a documented physical dysfunction of the nervous system, and cannot be assigned a numerical

percentage using the AMA's *Guides*, will not be included in the impairment rating for the employee. Mental impairments that are due to documented physical dysfunctions of the nervous system can be assigned numerical percentages using the AMA's *Guides* and will be included in the rating.

**§30.911 Does maximum medical improvement always have to be reached for an impairment to be included in the impairment rating?**

(a) An impairment that is the result of a covered illness will be included in the employee's impairment rating determined by OWCP under §30.901 only if OWCP concludes that the impairment has reached maximum medical improvement, which means that it is well-stabilized and unlikely to improve substantially with or without medical treatment.

(b) Notwithstanding paragraph (a) of this section, if OWCP finds that an employee's covered illness is in the terminal stages, based upon probative medical evidence, an impairment that results from such covered illness will be included in the impairment rating for the employee even if it has not reached maximum medical improvement.

**§30.912 Can a covered Part E employee receive benefits for additional impairment following an award of such benefits by OWCP?**

A covered Part E employee previously awarded impairment benefits by OWCP may file a claim for additional impairment benefits. Such claim must be based on an increase in the impairment rating that is the result of the covered illness or illnesses from the impairment rating that formed the basis for the last award of such benefits by OWCP. OWCP will only adjudicate claims for such an increased rating that are filed at least two years from the date of the last award of impairment benefits. However, OWCP will not wait two years before it will adjudicate a claim for additional impairment that is based on an allegation that the employee sustained a new covered illness.