

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JUDSON L. WILSON and U.S. POSTAL SERVICE,
POST OFFICE, Houston, Tex.

*Docket No. 97-621; Submitted on the Record;
Issued October 19, 1998*

DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant has more than a 37 percent permanent impairment of the right lower extremity for which he received a schedule award.

The Board has duly reviewed the case record and concludes that appellant has no greater than a 37 percent permanent impairment of the right lower extremity.

On March 16, 1984 appellant, then a 49-year-old mail clerk, sustained an employment-related tear of the right medial meniscus for which he underwent authorized arthroscopy in 1984 and 1994 and an authorized total knee replacement in 1995. He had retired on March 30, 1990, and on June 21, 1996 filed a claim for a schedule award. By decision dated September 10, 1996, the Office of Workers' Compensation Programs granted him a schedule award for a 37 percent permanent impairment for partial loss of use of the right lower extremity for the period August 29, 1995 to September 12, 1997 for a total of 106.56 weeks of compensation.

Under section 8107 of the Federal Employees' Compensation Act¹ and section 10.304 of the implementing federal regulations,² schedule awards are payable for permanent impairment of specified body members, functions or organs. However, neither the Act nor the regulations specify the manner in which the percentage of impairment shall be determined. For consistent results and to ensure equal justice under the law for all claimants, good administrative practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants. The American Medical Association, *Guides to the Evaluation of Permanent*

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.304.

*Impairment*³ (hereinafter A.M.A., *Guides*) have been adopted by the Office, and the Board has concurred in such adoption, as an appropriate standard for evaluating schedule losses.⁴

The relevant medical evidence includes reports dated July 16 and August 26, 1996 in which appellant's treating Board-certified orthopedic surgeon, Dr. W. Malcolm Granberry, advised that he applied Table 65 of the fourth edition of the A.M.A., *Guides* which indicated that appellant's physical findings yielded 89 points. He determined that appellant had reached maximum medical improvement on August 29, 1995 and had a "good" result of his total knee replacement. Appellant, therefore, had sustained a 37 percent permanent impairment of the right lower extremity. By report dated September 9, 1996, an Office medical adviser utilized Dr. Granberry's findings and advised that appellant had a 37 percent permanent impairment of the right lower extremity.

The Board finds that it was proper for the Office medical adviser to use Dr. Granberry's findings to rate appellant's permanent impairment as his reports indicate that he properly followed the instructions outlined in Tables 64 and 65 of the A.M.A., *Guides* which indicate that in estimating appellant's degree of impairment from a total knee replacement, a "good" result of 85 to 100 points is equal to a 37 percent impairment of the lower extremity.⁵ Furthermore, the A.M.A., *Guides* indicates that when diagnosis-based ratings are applied it is usually not appropriate to also apply ratings for physical examination findings.⁶ The Office therefore properly granted appellant a schedule award for a 37 percent permanent impairment of the right lower extremity.⁷

³ A.M.A., *Guides* (4th ed. 1993).

⁴ See *James J. Hjort*, 45 ECAB 595 (1994); *Leisa D. Vassar*, 40 ECAB 1287 (1989); *Francis John Kilcoyne*, 38 ECAB 168 (1986).

⁵ A.M.A., *Guides*, *supra* note 3 at 85, 88.

⁶ *Id.* at 85.

⁷ See *Luis Chapa, Jr.*, 41 ECAB 159 (1989).

The decision of the Office of Workers' Compensation Programs dated September 10, 1996 is hereby affirmed.

Dated, Washington, D.C.
October 19, 1998

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member