

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JAMES L. ABBOTT and DEPARTMENT OF THE NAVY,  
MARINE CORPS AIR STATION, Kaneohe Bay, Hawaii

*Docket No. 97-1874; Submitted on the Record;  
Issued April 12, 1999*

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DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,  
MICHAEL E. GROOM

The issue is whether appellant has more than a seven percent permanent impairment to the right arm.

In the present case, the Office of Workers' Compensation Programs accepted that appellant sustained right wrist tendinitis in the performance of duty on February 26, 1994. By decision dated March 6, 1997, the Office issued a schedule award for a seven percent permanent impairment of the right arm. Appellant received 21.84 weeks of compensation commencing June 26, 1996. By decision dated April 10, 1997, the Office denied appellant's request for reconsideration without review of the merits of the claim.

The Board has reviewed the record and finds that appellant has not established more than a seven percent permanent impairment to his right arm.

Section 8107 of the Federal Employees' Compensation Act provides that, if there is permanent disability involving the loss or loss of use of a member or function of the body, the claimant is entitled to a schedule award for the permanent impairment of the scheduled member or function.<sup>1</sup> Neither the Act nor the regulations specify the manner in which the percentage of impairment for a schedule award shall be determined. For consistent results and to ensure equal justice for all claimants, the Office has adopted the American Medical Association, *Guides to the Evaluation of Permanent Impairment* as the uniform standard applicable to all claimants.<sup>2</sup>

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<sup>1</sup> 5 U.S.C. § 8107. This section enumerates specific members or functions of the body for which a schedule award is payable and the maximum number of weeks of compensation to be paid; additional members of the body are found at 20 C.F.R. § 10.304(b).

<sup>2</sup> A. George Lampo, 45 ECAB 441 (1994).

By letter dated September 9, 1996, the Office requested that appellant make an appointment with an attending physician, Dr. Robert Medoff, to determine the extent of any permanent impairment to the arm. The record indicates, however, that appellant advised the Office on September 24, 1996 that Dr. Medoff would not perform the examination. The Office then referred appellant for examination by Dr. Lee Silver, a Board-certified orthopedic surgeon.

In a report dated November 26, 1996, Dr. Silver provided a history and results on examination. With respect to range of motion for the right wrist, Dr. Silver reported 60 degrees dorsiflexion, 50 degrees palmar flexion, 10 degrees radial deviation and 30 degrees ulnar deviation. He also noted a partial transverse sensory loss of the little finger based on a two-point discrimination test. Dr. Silver concluded that appellant had a seven percent impairment of the arm according to the A.M.A., *Guides*. He explained that, under Figure 17 and Tables 1 and 2, the sensory loss resulted in a 3 percent arm impairment and pursuant to Figures 26 and 29, there was a 4 percent impairment due to loss of range of motion.

In a memorandum dated February 27, 1997, an Office medical adviser indicated that she had reviewed the November 26, 1996 report. The medical adviser also concluded that appellant had a seven percent impairment. She properly indicated that under Figure 26, 50 degrees of palmar flexion is a 2 percent impairment, and 10 degrees of radial deviation also resulted in a 2 percent impairment under Figure 29.<sup>3</sup> No additional impairment for loss of range of motion is indicated based on findings recorded by Dr. Silver. For sensory loss of the little finger, the A.M.A., *Guides* indicate that a partial transverse sensory loss, based on a two-point discrimination test as performed by Dr. Silver, results in a 25 percent impairment to the finger under Figure 17,<sup>4</sup> which is equivalent to a 3 percent impairment to the arm under Tables 1 and 2.<sup>5</sup> The Board notes that a 3 percent impairment of the arm results in a greater number of weeks of compensation than a 25 percent impairment of the little finger.<sup>6</sup>

The Board accordingly finds that based on the probative medical evidence of record, as represented by the report of Dr. Silver, the A.M.A., *Guides* were properly applied in determining the degree of permanent impairment in this case. The medical evidence indicates that appellant had a four percent impairment for loss of range of motion and three percent for sensory loss in the little finger, for a total of seven percent permanent impairment to the right arm. The record does not contain any additional medical evidence regarding the degree of permanent impairment and, therefore, the Board finds that appellant has not established more than a seven percent impairment to the right arm in this case.

The decisions of the Office of Workers' Compensation Programs dated April 10 and March 6, 1997 are affirmed.

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<sup>3</sup> A.M.A., *Guides* (4th ed. 1993), 36, Figure 26, 38, Figure 29.

<sup>4</sup> *Id.*, 30, Figure 17.

<sup>5</sup> *Id.*, 18, Table 1, 19, Table 2.

<sup>6</sup> The maximum number of weeks of compensation for loss of use of the little finger is 15 weeks; 25 percent would result in 3.75 weeks of compensation. 5 U.S.C. § 8107(c)(12). On the other hand, the maximum award for loss of use of the arm is 312 weeks of compensation, and a 3 percent impairment results in 9.36 weeks.

Dated, Washington, D.C.  
April 12, 1999

Michael J. Walsh  
Chairman

George E. Rivers  
Member

Michael E. Groom  
Alternate Member