

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of HAROLD R. ADAMSON and DEPARTMENT OF THE NAVY,
NEWPORT NAVAL BASE, Newport, R.I.

*Docket No. 97-2057; Submitted on the Record;
Issued April 26, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant has more than a 10 percent permanent impairment to the left arm.

In the present case, the Office of Workers' Compensation Programs accepted that appellant sustained left carpal tunnel syndrome causally related to factors of his federal employment. In a decision dated August 3, 1994, the Office issued a schedule award for a 10 percent permanent impairment of the left arm.¹ Following a review of the written record, an Office hearing representative affirmed the schedule award by decision dated November 15, 1994. In decisions dated September 3, 1996 and April 28, 1997, the Office denied modification of the prior schedule award decisions.

The Board has reviewed the record and finds that the case requires further development of the evidence.

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.² 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

¹ The Office had previously accepted right carpal tunnel syndrome and appellant had received a schedule award for a 25 percent impairment to the right arm on February 11, 1993.

² 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).

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.³

In this case, the Office provided an attending physician, Dr. Edwin G. Singsen, an orthopedic surgeon, with a Form CA-1303 and requested in a March 17, 1994 letter that he examine appellant and provide the information requested on the form. Dr. Singsen submitted a CA-1303 dated March 23, 1994 reporting a 20 percent impairment from decreased strength and a 5 percent impairment for sensory deficit or pain. In a report dated July 18, 1994, an Office medical adviser noted that appellant had a left carpal tunnel release on December 15, 1993. The medical adviser then noted that there was a prior electromyogram (EMG) dated August 5, 1993, which showed no evidence of clinically significant carpal tunnel syndrome on either side, and he stated that the “EMG description does not correlate with the impairment rating given by Dr. Singsen.” The Office medical adviser stated that since there is no evaluation of the degree of weakness in the record, he felt appellant had a mild impairment of the median nerve under Table 16 resulting in a 10 percent impairment.⁴

The Board finds that the Office failed to follow its procedures and secure adequate medical evidence to make a determination as to the degree of permanent impairment under the A.M.A., *Guides*. In this case, Dr. Singsen completed the form report that was provided by the Office. The March 17, 1994 letter from the Office did not request a narrative report, nor did the Office attempt to secure a report providing a description of the impairment. Office procedures clearly require that the Office should secure a medical report from the attending physician that contains a “detailed description of the impairment.”⁵

In this case, the Office medical adviser had little probative medical evidence as to appellant’s left arm condition and his report is of little probative value. The Office medical adviser initially noted in his July 18, 1994 report that the operative report from December 1993 indicated “significant compression.” He then refers to an EMG performed in August 1993, four months prior to the surgery and nearly a year prior to his review of the case and appears to use the EMG as a basis for determining the degree of impairment.

The case will be remanded to the Office to secure medical evidence that adequately describes the left arm impairment and contains a reasoned opinion as to the degree of permanent impairment under the A.M.A., *Guides*. After such further development as the Office deems necessary, it should issue an appropriate decision.

³ A. George Lampo, 45 ECAB 441 (1994).

⁴ A.M.A., *Guides* (4th ed. 1993), 57, Table 16. This table provides impairments due to entrapment neuropathy, which represents an alternative method to measuring sensory and motor deficits.

⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6(c) (March 1995).

The decisions of the Office of Workers' Compensation Programs dated April 28, 1997 and September 3, 1996 are set aside and the case remanded for further action consistent with this decision of the Board.

Dated, Washington, D.C.
April 26, 1999

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member