

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MITCHELL D. JACKSON and U.S. POSTAL SERVICE,
POST OFFICE, St. Louis, MO

*Docket No. 99-1817; Submitted on the Record;
Issued August 17, 2000*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has more than an 11 percent permanent impairment to the right lower extremity.

The Office accepted appellant's claim for a sprain to the right knee and a right knee arthroscopy on January 6, 1998. He returned to work on November 7, 1998 as a modified city carrier.

On August 30, 1998 appellant filed a claim for a schedule award.

In a report dated October 27, 1998, a second opinion physician, Dr. Donald M. McPhaul, a Board-certified physiatrist, considered appellant's history of injury, performed a physical examination, and diagnosed post-traumatic chondromalacia of the patella, femoral trochlea, lateral tibial plateau and medial tibial plateau, treated surgically. He found that appellant had 102 degrees of knee flexion, 180 degrees extension and a 5 degree valgus positioning of the knee. He stated that appellant reached maximum medical improvement on August 26, 1998. Applying the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, (4th ed. 1994), Dr. McPhaul determined, using Table 41, page 78, that a 102 degree knee flexion yielded a 10 percent impairment, and a 180 degree knee extension and 5 degree valgus each yielded a 0 percent impairment. He therefore opined that appellant's impairment to his range of motion was 10 percent. Using Table 20, page 151, Dr. McPhaul opined that appellant's right knee pain which interfered with prolonged standing, walking and stooping yielded a 60 percent sensory impairment, and using Table 68, page 89, that the pain fitting best in the femoral nerve distribution yielded a 2 percent lower extremity impairment. He multiplied 60 percent by 2 percent to obtain a 1 percent impairment due to pain. Dr. McPhaul then combined the 10 percent impairment due to abnormal range of motion with 1 percent impairment due to pain, and using the Combined Values Chart, page 322, obtained an 11 percent impairment to the right lower extremity.

In a report dated August 26, 1998, the district medical adviser found that Dr. McPhaul had properly applied the A.M.A., *Guides* (4th ed. 1994), and his determination that appellant had an 11 percent impairment to his right lower extremity was correct. The district medical adviser noted that Dr. McPhaul considered the range of motion, chronic pain and weakness, sensory deficit and discomfort.

By decision dated February 8, 1999, the Office issued a schedule award for an 11 percent permanent impairment to the right lower extremity.

The Board finds that appellant has no more than an 11 percent impairment to his right lower extremity for which he received a schedule award.

The schedule award provision of the Federal Employees' Compensation Act¹ provides for compensation to employees sustaining permanent impairment from loss or loss of use of specified members of the body. The Act's compensation schedule specifies the number of weeks of compensation to be paid for the permanent loss of use of specified members, functions and organs of the body. The Act does not, however, specify the manner by which the percentage loss of a member, function, or organ shall be determined. The method used in making such a determination is a matter that rests in the sound discretion of the Office.² For consistent results and to ensure equal justice under the law to 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.³

In the present case, Dr. McPhaul properly used the A.M.A., *Guides* (4th ed. 1994) to determine that appellant had an 11 percent impairment to his right lower extremity. Pursuant to Table 41, page 78, he properly determined that 102 degrees of knee flexion yielded a 10 percent impairment and that a 180 degree knee extension and a 5 degree knee valgus yielded a 0 percent impairment. Dr. McPhaul properly determined that right knee pain which interfered with prolonged standing, walking and stooping yielded a 60 percent sensory impairment pursuant to Table 20, page 151, and pain in the femoral nerve distribution yielded a 2 percent lower extremity impairment pursuant to Table 68, page 89. Further, pursuant to Table 20, page 151, he properly multiplied the 60 percent by 2 percent to obtain a 1 percent impairment due to pain. Dr. McPhaul properly used the Combined Values Chart, page 322, to determine that the 10 percent impairment of range of motion and the 1 percent due to pain resulted in an 11 percent impairment to appellant's right lower extremity. In his December 4, 1998 report, the district medical adviser agreed with Dr. McPhaul that based on the A.M.A., *Guides* (4th ed. 1994) appellant had an 11 percent impairment to his right lower extremity. Appellant has not presented any evidence to show that his impairment to his right lower extremity is greater than 11 percent.

The decision of the Office of Workers' Compensation Programs dated February 8, 1999 is hereby affirmed.

¹ 5 U.S.C. § 8107 *et seq.*

² *Arthur E. Anderson*, 43 ECAB 691, 697 (1992); *Daniel C. Goings*, 37 ECAB 781, 783 (1986).

³ *Arthur E. Anderson*, *supra* note 2 at 697; *Henry L. King*, 25 ECAB 39, 44 (1973).

Dated, Washington, D.C.
August 17, 2000

David S. Gerson
Member

Willie T.C. Thomas
Member

Michael E. Groom
Alternate Member