

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of YVONNE A. ELDRIDGE and DEPARTMENT OF THE AIR FORCE,
AIR FORCE SYSTEMS COMMAND, Baltimore, MD

*Docket No. 98-25; Submitted on the Record;
Issued February 7, 2000*

DECISION and ORDER

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

The issue is whether appellant has more than a 20 percent permanent impairment of her left lower extremity for which she received a schedule award.

In this case, appellant, then a 36-year-old contract specialist, was involved in a motor vehicle accident on June 16, 1982 while in the performance of her job duties. The Office of Workers' Compensation Programs accepted appellant's claim (claim number A25-218671) for a cervical strain and contusions to the left knee and right wrist. The claim was later amended to include chondromalacia patella of the left knee and arthroscopy and shaving of the left knee. Appellant suffered a second injury on December 28, 1990 when she slipped and fell on a snowy, icy parking lot. The Office accepted appellant's claim (claim number A03-161290) for contusion of the right hip and a sprain of the right knee. The claim was later amended to include chondromalacia patella and arthroscopy of the right knee. The Office doubled these two claims into claim number A25-218671.¹ The record reflects that on January 3, 1994 appellant was awarded a 15 percent permanent impairment of her left lower extremity under claim number A25-218671. Appellant was previously awarded a 20 percent permanent impairment of her right lower extremity under claim number A25-161290 on October 14, 1992.

In an August 7, 1996 medical report, Dr. Rafael Alfonso, a Board-certified orthopedic surgeon and an Office referral physician, provided a history of appellant's injuries and set forth his examination findings. Based on the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, (fourth edition), Dr. Alfonso stated that appellant had a complete range of motion of both knees with some evidence of crepitation and a great deal of

¹ By decision dated June 24, 1997, the Office terminated appellant's wage-loss compensation effective June 4, 1997. By letter dated July 14, 1997, appellant requested an oral hearing before the Branch of Hearings and Review. As the Branch of Hearings and Review has not issued a decision on the termination of appellant's wage-loss compensation benefits, the Board does not have jurisdiction to review the Office's June 24, 1997 decision. On appeal appellant has sought review of the July 15, 1997 schedule award determination.

subjective complaints of pain upon motion of the knee and standing. Dr. Alfonso noted that this pain has been present even without any activity. He stated that it was unquestionable that appellant has an old chronic chondromalacia of the patella with some degree of patellofemoral instability bilaterally. Appellant's post arthroscopy status was said to be quiescent. Dr. Alfonso stated that appellant had a 15 percent impairment of her right knee and a 15 percent impairment of her left knee. Regarding back and hip problems, he stated that it appeared appellant had a chronic trochanteric bursitis, which still caused her pain. Based on the sole symptomatology of pain, Dr. Alfonso accorded a 20 percent impairment to appellant's right hip.

Appellant's attending physician, Dr. Neil M. Keats, a Board-certified orthopedic surgeon, reported on December 23, 1996 that his overall evaluation of appellant was still the same and that he would still rate appellant at 20 percent impairment for her right knee and 18 percent for her left knee. Additionally, Dr. Keats stated that he would rate appellant's right hip, which has been a chronic trochanteric bursitis, at five percent permanent disability. In a standard examination form of January 7, 1997, Dr. Keats noted that appellant reached maximum medical improvement on January 7, 1997 and retained active flexion of 150 degrees, which was average and extension of 0 degrees, which was neutral. He opined that there was an additional impairment of function due to weakness, atrophy, pain or discomfort estimated at 5 percent for each hip, for a total of 10 percent for the right and left lower extremities.

In a June 4, 1997 medical report, Dr. Weerasak Lima, a Board-certified orthopedic surgeon, noted appellant's history of injury, set forth his examination findings and reviewed her medical records.² He opined that appellant reached maximum medical improvement, but that her knee problems continued to linger because of the degenerative joint process. Dr. Lima found that appellant has normal range of movement of her knees and, according to the A.M.A., *Guides*, (fourth edition), Table 41, page 3/78, provided a permanent impairment rating of the lower extremities as less than 10 percent in each knee with no more than 5 percent additional impairment for chronic pain and loss of endurance, totaling no more than 15 percent of each knee for lower extremity impairment. He explained that the direction for providing the rating was according to the A.M.A., *Guides* with an additional five percent for loss of endurance and pain. Dr. Lima stated that appellant has more for the condition of the arthroscopic finding and that there were degenerative changes of the knee process. He stated that although appellant has some chronic pain going towards the hip, he did not believe that the hip symptoms were related to her knees. Dr. Lima noted that appellant had been diagnosed with trochanteric bursitis and also had some degenerative changes of the lumbar spine area.

The Office forwarded a statement of the accepted facts, the medical evidence of record, along with a list of questions to the Office medical adviser regarding his opinion as to the percentage of impairment of the right and left lower extremities. In a report dated July 1, 1997, the Office medical adviser determined that the date of maximum medical improvement was June 4, 1997, the date of Dr. Lima's report. Pursuant to the A.M.A., *Guides*, fourth edition,

² The record indicates that Dr. Lima was selected as an impartial medical specialist to resolve a conflict in medical opinion as to appellant's disability for work. He was requested to provide an opinion of appellant's permanent impairment due to her accepted injuries.

Table 62, page 83, the Office medical adviser stated the degenerative arthritis of both knees equated to a 20 percent impairment for each lower extremity.

By decision dated July 15, 1997, the Office awarded appellant an additional 5 percent permanent impairment for the left lower extremity, for a total of 20 percent impairment of the left leg.

The Board finds that the case is not in posture for a decision.

The schedule award provisions of the Federal Employees' Compensation Act set forth the number of weeks of compensation to be paid for permanent loss of the use of the members listed in the schedule.³ The Act, however, does not specify the manner in which the percentage loss of a member shall be determined. The method used in making such determinations is a matter which rests in the sound discretion of the Office.⁴ However, as a matter of administrative practice and to ensure consistent results to all claimants, the Office has adopted and the Board has approved the A.M.A., *Guides* as the uniform standard applicable to all claimants.⁵

In obtaining medical evidence required for a schedule award, the evaluation made by the attending physician must include a detailed description of the impairment, including, where applicable, the loss in degree of motion of the affected member or function, the amount of any atrophy or deformity, decreases in strength or disturbance of sensation, or other pertinent descriptions of the impairment. This description must be in sufficient detail so that the claims examiner and others reviewing the file will be able to clearly visualize the impairment with its resulting restrictions and limitations.⁶

In the instant case, Dr. Keats concluded that appellant had a 20 percent permanent impairment for her right lower extremity and an 18 percent permanent impairment for her left lower extremity. His flexion-extension figures for the hips were in the normal range. He opined that there was an additional five percent impairment for the right and left lower extremities due to weakness, atrophy, pain or discomfort of the hip, but failed to explain with specific reference to the appropriate tables of the A.M.A., *Guides*, how he arrived at his percentages.⁷

Dr. Alfonso stated that appellant had a 15 percent impairment of her right and left lower extremities, noting a complete range of motion of both legs. He opined that there was an additional 20 percent impairment to appellant's right lower extremity because of her symptomatology of pain to her back and hips due to appellant's chronic trochanteric bursitis, but

³ 5 U.S.C. § 8107.

⁴ *Daniel C. Goings*, 37 ECAB 781 (1986); *Richard Beggs*, 28 ECAB 387 (1977).

⁵ *Henry L. King* 25 ECAB 39, 44 (1973); *August M. Buffa*, 12 ECAB 324, 325 (1961).

⁶ *Gary L. Loser*, 38 ECAB 673 (1987).

⁷ *Id.*

failed to explain with specific reference to the appropriate tables of the A.M.A., *Guides*, how he arrived at his percentages.⁸

Although Dr. Lima discussed the A.M.A., *Guides* in finding that the degenerative joint process in appellant's knees resulted in a less than 10 percent impairment rating for both the right and left lower extremities, he failed to explain with specific reference to the appropriate tables of the A.M.A., *Guides*, how he arrived at his 5 percent impairment for chronic pain and loss of endurance for condition of the arthroscopic finding and the degenerative changes of the knee process in both extremities, in arriving at his total of no more than 15 percent impairment for each lower extremity.

The Office medical adviser referred to Table 62 of the A.M.A., *Guides* in arriving at his conclusion that appellant's degenerative arthritis of both knees resulted in a 20 percent impairment to each lower extremity. The Office medical adviser did not state how he derived his calculations nor refer to any x-rays of record utilized to determine cartilage intervals. Although the record reflects appellant has been diagnosed with trochanteric bursitis of the hip and may have other degenerative changes due to her employment injuries, the Office medical adviser did not provide any explanation for basing his estimate of impairment rating solely on the degenerative arthritis of the knees. With respect to his 20 percent impairment rating for appellant's right and left extremities, the Office medical adviser did not specify which roentgenogram he utilized to arrive at the 2 millimeter cartilage interval. Based on the medical evidence as developed, the Board is unable to make a fully informed determination of the nature and extent of impairment due to appellant's accepted employment injuries.

The case will be remanded for further development and evaluation of appellant's permanent impairment under the A.M.A., *Guides*. After such development as deemed necessary, the Office shall issue a *de novo* decision on appellant's impairment due to her accepted employment injuries.

⁸ *Id.*

The decision of the Office of Workers' Compensation Programs dated July 15, 1997 is set aside and the case is remanded for further consideration consistent with this opinion.

Dated, Washington, D.C.
February 7, 2000

Michael J. Walsh
Chairman

George E. Rivers
Member

Michael E. Groom
Alternate Member