

U. S. DEPARTMENT OF LABOR
Employees' Compensation Appeals Board

In the Matter of PEGGY A. OLTMAN and VETERANS ADMINISTRATION,
MEDICAL CENTER, Tuscon, AZ

*Docket No. 99-396; Submitted on the Record;
Issued September 13, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has more than an eight percent permanent impairment to her right upper extremity for which she received a schedule award.

On February 10, 1988 appellant, then a 37-year-old ward secretary, filed a notice of occupational disease and claim for compensation, alleging that she sustained tendinitis in her right arm as a result of the extensive writing she had to perform during the course of her employment. The case was accepted in July 1988 for de Quervain's syndrome of the right hand.

On January 5, 1997 appellant filed a claim for a schedule award. In support thereof, she submitted a medical report dated December 16, 1996, wherein Dr. Sofia Weigel, appellant's treating physician and a Board-certified physical medicine and rehabilitation specialist, noted that accurate measurements regarding appellant's impairment were difficult to obtain due to her pain, but that appellant was status post right thumb release for de Quervain's disorder, had right wrist pain and wore a wrist splint. Dr. Weigel concluded that appellant suffered from an eight-percent right upper extremity impairment for mild constrictive tenosynovitis, using the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.¹

Based on this report, the medical adviser for the Office of Workers' Compensation Programs found that appellant had a maximum medical improvement date of December 16, 1996. Utilizing the A.M.A., *Guides*, he determined that appellant had an eight percent right upper extremity impairment. He determined this as follows:

"Constrictive tenosynovitis ([page] 63 -- [Table] 29) -- Right

Mild -- Inconstant Triggering -- 20 [percent]

¹ A.M.A., *Guides*, (4th ed. 1993).

Impairment of Specific Joint ([page] 58 -- [Table] 18)

Wrist – Radiocarpal -- 40 [percent] UE

20 [percent times] 40 [percent] [equals] 8 [percent] RUE”

Accordingly, in a decision dated June 3, 1997, appellant was awarded a schedule award for an eight percent right upper extremity impairment. The period of the award was from December 16, 1996 through June 8, 1997.

On February 26, 1998 appellant filed a notice of occupational disease and claim for compensation (Form CA-2) for the same injury of August 1, 1987. In support of her request for an additional schedule award, appellant filed a medical report by Dr. Robert Ippolito, a hand surgeon, wherein he stated that appellant’s symptoms were consistent with residual carpal tunnel pain and de Quervain’s tenosynovitis, an operative report by Dr. Ippolito dated February 12, 1998, wherein he noted that appellant had surgery for release of first compartment, right wrist and release of right carpal tunnel to treat her right recurrent de Quervain’s syndrome and right carpal tunnel, results of motor nerve conductions, sensory nerve conductions and a needle electromyography performed by Dr. G. Motgi, a Board-certified neurologist, on October 7, 1997 and a statement by appellant regarding how her employment caused her right hand problems.

In its decision dated August 11, 1998, the Office found that Dr. Ippolito had not provided any medical opinion in accordance with the A.M.A., *Guides* to demonstrate that appellant had any additional impairment to her right upper extremity over the eight percent which had previously been assessed and denied appellant’s request for an increased schedule award.

The Board’s jurisdiction to consider and decide appeals from final decisions of the Office extends only to those final decisions issued within one year prior to the filing of the appeal.² As appellant filed his appeal with the Board on October 14, 1998, the only decision properly before the Board is the decision dated August 11, 1998.

The Board finds that appellant has not proven that she has a greater than eight percent permanent impairment of the right upper extremity.

Section 8107 of the Federal Employees’ Compensation Act provides that, if there is permanent disability involving the loss of use of a member or function of the body, the claimant is entitled to a schedule award for the permanent impairment of specific members, functions, or organs of the body.³ 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 A.M.A., *Guides* as a standard for evaluating schedule losses and the Board has concurred in such adoption.⁴

² *Oel Noel Lovell*, 42 ECAB 537 (1991).

³ 5 U.S.C. § 8107(a).

⁴ *Ray H. Dewsnap*, 46 ECAB 907 (1995).

In obtaining medical evidence for schedule award purposes, the Office must obtain an evaluation by an attending physician which includes a detailed description of the impairment including, where applicable, the loss in degrees 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 description of the impairment. The 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.⁵ If the attending physician has provided a detailed description of the impairment, but has not properly evaluated the impairment pursuant to the A.M.A., *Guides*, the Office may request that the Office medical adviser review the case record and determine the degree of appellant's impairment utilizing the description provided by the attending physician and the A.M.A., *Guides*.⁶

In the instant case, the Office's earlier award of an eight percent right upper extremity impairment under the schedule was supported by the opinion of Dr. Weigel, as interpreted by the Office medical examiner. There is no new evidence in the record to support appellant's requested increase. The medical reports of Dr. Ippolito note that appellant underwent surgery on February 12, 1998 for the release of the first compartment, right wrist and release of right carpal tunnel. Appellant also submitted the results of tests conducted by Dr. Motgi. None of these tests show that appellant suffered an increase in her permanent impairment to her right upper extremity or provide any basis from which an Office medical adviser could clearly visualize the impairment with its resulting restrictions and limitations. As appellant has not provided a rationalized medical report from which the Office medical adviser could determine an increase in her permanent impairment, the Board finds that appellant has failed to prove that she had suffered an impairment greater than the eight percent of the right upper extremity for which she has already received an award under the schedule.⁷

⁵ *Joseph E. Lee*, 42 ECAB 172 (1990).

⁶ 5 U.S.C. § 8197(c); 20 C.F.R. § 10.304; *George E. Williams*, 44 ECAB 530 (1993).

⁷ The Board notes that appellant submitted additional evidence to the Office after the issuance of the August 11, 1998 decision by the Office. She also submitted new evidence to the Board on appeal. The Board has no jurisdiction to review evidence submitted by appellant subsequent to the Office's August 11, 1998 decision or for the first time on appeal. See 20 C.F.R. § 501.2(c).

The decision of the Office of Workers' Compensation Programs dated August 11, 1998 is affirmed.

Dated, Washington, DC
September 13, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member