

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of THOMAS C. DELLER and DEPARTMENT OF THE AIR FORCE,  
AEROSPACE MAINTENANCE & REGENCY CENTER, DAVIS-MONTHAN  
AIR FORCE BASE, AZ

*Docket No. 99-1833; Submitted on the Record;  
Issued September 7, 2000*

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DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
VALERIE D. EVANS-HARRELL

The issue is whether appellant has established that he has greater than a 13 percent impairment of the left upper extremity, for which he received a schedule award.

On May 1, 1998 appellant, then a 46-year-old aircraft mechanic, while in the performance of duty sustained an injury to his left arm. The Office of Workers' Compensation Programs accepted appellant's claim for a left arm strain. On February 15, 1999 appellant filed a claim for a schedule award. (CA-7 Claim for compensation on account of traumatic injury or occupational disease.) In support of his claim, appellant submitted a January 19, 1999 report from Dr. Carl W. Dasse, a Board-certified family practitioner, who determined that appellant had a 20 percent permanent impairment of the left upper extremity due to loss of strength. He stated that appellant had an essentially normal range of motion.

The Office subsequently referred appellant to an Office medical adviser who in a March 27, 1999 report determined that appellant had a 13 percent impairment of the left upper extremity. Accordingly, on April 12, 1999, the Office granted appellant a schedule award for a 13 percent permanent loss of use of his left arm. The award covered a period of 40.56 weeks from January 19 to October 29, 1999.

The Board finds that appellant has no more than a 13 percent impairment of his left upper extremity for which he received a schedule award.

Section 8107 of the Federal Employees' Compensation Act<sup>1</sup> sets forth 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, however, does not specify the manner by which the percentage loss of a member, function or organ shall be determined. To ensure consistent results and equal

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<sup>1</sup> 5 U.S.C. § 8107.

justice under the law, good administrative practice requires the use of uniform standards applicable to all claimants. The Office has adopted the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4<sup>th</sup> ed. 1993) as an appropriate standard for evaluating schedule losses and the Board has concurred in such adoption.<sup>2</sup>

In the instant case, the April 12, 1999 schedule award was based on the March 27, 1999 report of the Office's medical adviser, who reviewed the January 19, 1999 findings of appellant's then treating physician, Dr. Dasse. In his report, Dr. Dasse noted that "appellant had chronic ongoing pain in his left nondominant elbow, albeit, not as great as his right dominant elbow for which he has already been assessed a degree of permanent impairment." He also noted that any manipulative activities elicit pain and the pain level at rest is around two to three and gets to five to six with aggravation. Dr. Dasse opined that appellant had pain on resisted extension of the wrist and direct pressure over the lateral condylar area as well as at the insertion of the extensor muscles of the forearm. He also stated that appellant had measured decrease in grip strength. Testing the left nondominant elbow, he had an average of 41.7 kilograms of strength. Dr. Dasse stated that 41.7 kilograms compared the average for a 40- to 49-year-old male of 47.3 gives a percentage of 12 percent reduction in strength.<sup>3</sup> He stated that Table 34 on page 3/65 of the A.M.A., *Guides* provided that a 12 percent decrease in grip strength equated to 20 percent permanent impairment of the left upper extremity. However, the Board notes that under Table 34, a 12 percent strength loss index equals a 10 percent permanent impairment.<sup>4</sup> It appears that appellant's physician juxtaposed the percentages when viewing the numbers in Table 34 as the calculations for grip strength are correct with the exception of this error. The Office medical adviser properly calculated a 10 percent impairment due to loss of grip strength.

The Office medical adviser also reviewed Dr. Dasse's observations regarding appellant's pain and graded the pain complaints as per the grading scheme found in Chapter Three, fourth edition of the A.M.A., *Guides*. The Office medical adviser found that appellant had pain and/or altered sensation that may interfere with an activity and, under Grade 3 of Table 11a, multiplied a 60 percent sensory deficit of the radial nerve with the 5 percent maximum allowed for the radial nerve at Table 15 of the A.M.A., *Guides*.<sup>5</sup> This equaled a three percent impairment of the left upper extremity for the subjective complaints of pain.<sup>6</sup> The Office medical adviser indicated that utilizing the Combined Values Chart: the 10 percent for loss of strength equaled a 13

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<sup>2</sup> James J. Hjort, 45 ECAB 595 (1994).

<sup>3</sup> Under the A.M.A., *Guides*, loss of strength is determined by a formula of abnormal strength subtracted from normal strength and then divided by normal strength to yield a percentage of strength index loss index. The grip strength of the affected hand is compared with the grip strength of the opposite extremity, which is assumed to be normal. If both extremities are affected, the strength measurements are compared to the average normal strengths listed in Tables 31-33. A.M.A., *Guides*, pp. 64-65 (4<sup>th</sup> ed. 1993). It appears that appellant's physician took this into consideration as the record indicates that appellant also has a right arm condition.

<sup>4</sup> A.M.A., *Guides*, pp. 64-65 (4<sup>th</sup> ed. 1993).

<sup>5</sup> A.M.A., *Guides*, pp. 48, 54 (4<sup>th</sup> ed. 1993).

<sup>6</sup> Dr. Dasse did not indicate a specific rating for pain in conformance with the A.M.A., *Guides*.

percent impairment of the left upper extremity, with date of maximal medical improvement reached by January 19, 1999.

In the instant case, the Office medical adviser properly interpreted the data in Dr. Dasse's report and determined that appellant had a 13 percent impairment of his left arm due pain and loss of grip strength. There is no other medical evidence of record indicating that, pursuant to the A.M.A., *Guides*, appellant has a greater degree of impairment.

Appellant has not provided any probative medical evidence that he has greater than a 13 percent impairment of his left upper extremity.

The decision of the Office of Workers' Compensation Programs dated April 12, 1999 is hereby affirmed.

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

Michael J. Walsh  
Chairman

David S. Gerson  
Member

Valerie D. Evans-Harrell  
Alternate Member