

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of RUBY B. JOHNSON and U.S. POSTAL SERVICE,  
SOUTH CHICAGO STATION, Chicago, IL

*Docket No. 99-1976; Submitted on the Record;  
Issued April 16, 2001*

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DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,  
PRISCILLA ANNE SCHWAB

The issue is whether appellant has more than a 57 percent impairment of the left lower extremity, for which she received a schedule award.

On August 12, 1991 the Office of Workers' Compensation Programs issued a schedule award to appellant for a 57 percent permanent impairment of her left lower extremity. Using the Combined Values Chart of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*,<sup>1</sup> the Office calculated appellant's award by combining a 20 percent impairment due to a total knee replacement in 1985 with a 46 percent impairment due to loss of range of motion.<sup>2</sup>

Prior to the total knee replacement, on January 18, 1983, appellant underwent a left patellectomy. After the total knee replacement, on September 9, 1993, she had an implant of an allograft patella, patellar tendon and quadriceps muscle.

On February 24, 1998 appellant filed a claim for an increased schedule award.

In a February 24, 1998 report, Dr. David A. Schiff, an assistant professor of rehabilitation medicine,<sup>3</sup> related appellant's history and described his findings on physical examination. He then determined that appellant had a left lower extremity impairment of 50 percent. Dr. Schiff calculated this impairment using Table 66, page 88, of the fourth edition of the A.M.A., *Guides*, which provides a rating system for knee replacement results.<sup>4</sup> Obtaining a total of 65 points

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<sup>1</sup> A.M.A., *Guides* 254 (3<sup>d</sup> ed. rev, 1990).

<sup>2</sup> The knee could flex without instability only to 20 degrees.

<sup>3</sup> Dr. Schiff was an associate of appellant's attending physician, Dr. J. Robin deAndrade, who referred appellant to Dr. Schiff for a consultation to determine appellant's permanent impairment.

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

from this table, he turned to Table 64, page 85. According to this table, 65 points represents a fair result obtained from total knee replacement, or a 50 percent impairment of the lower extremity.

An Office medical adviser reviewed Dr. Schiff's report and concurred with the impairment rating reported.

In a decision dated June 3, 1998, the Office denied appellant's claim for an increased award on the grounds that there was no medical evidence to support that she had more than a 57 percent permanent impairment.

Appellant requested a hearing before an Office hearing representative. She submitted a June 26, 1998 report from her attending physician, Dr. deAndrade who reported that, after appellant received an impairment rating of 57 percent, she underwent a massive allograft of bone, patellar tendon and muscle to the left knee. Appellant also had hyperesthesia of the left lower extremity. Dr. deAndrade reported: "I believe when you add all these together it would probably raise her disability rating to 60 percent."

After the hearing which was held on February 22, 1999 appellant submitted a February 26, 1999 report from Dr. deAndrade who clarified appellant's impairment rating as follows:

"The '*Guides to the Evaluation of Permanent Impairment*,' Fourth Edition has this to state in Table 64 on page 85 of the third section. Namely patellectomy total rates at 22 percent of the limb. Total knee replacement with a good result is 37 percent of the limb, fair result is 50 percent and a poor result is 75 percent of the limb. It would appear that the 57 percent was gained from the addition of the patella and a good total knee, namely 22 plus 37 percent equals 59. The patient does have some pain in the knee, hence I would not classify this as a completely successful knee. Hence by giving her the disability of 40 percent relative to the total knee adding patellectomy with a good total knee would yield 59 percent disability in the leg. Her knee is not entirely good since she does have some [sic] and it would be perfectly reasonable to add 1 percent to this she would be given a rating of a patellectomy of 22 percent and a total knee replacement 38 percent. This would lead to an aggregate of 60 percent disability in that knee. In my opinion this is her final rating."

On March 26, 1999 an Office medical adviser reported that he "did not see where the patellectomy played a part or should play a part in [the] impairment rating of the claimant."

In a decision dated April 14, 1999, an Office hearing representative affirmed the Office's June 3, 1998 decision.

The Board finds that the medical evidence fails to establish that appellant has more than a 57 percent permanent impairment of the left lower extremity, for which she received a schedule award.

Section 8107 of the Federal Employees' Compensation Act<sup>5</sup> authorizes the payment of schedule awards for the loss or permanent impairment of specified members, functions or organs of the body. The Office evaluates the degree of impairment according to the standards set forth in the specified edition of the A.M.A., *Guides*.<sup>6</sup>

According to Dr. Schiff, a consulting associate of appellant's attending physician, appellant had a "fair result" from her total knee replacement. He indicated that he followed the rating procedure set forth at Table 66, page 88, of the fourth edition of the A.M.A., *Guides* and compared the points obtained therefrom to Table 64, page 85, which gives an impairment rating of 50 percent for a fair result.

Dr. deAndrade rated appellant's impairment at 60 percent but based this estimate on a faulty assumption and a misuse of the A.M.A., *Guides*. First, she reported that "it would appear" that appellant's schedule award of 57 percent was gained from the addition of a patellectomy and total knee replacement under Table 64, page 85, of the fourth edition of the A.M.A., *Guides*. In fact, the Office based appellant's schedule award on a 20 percent impairment due to a total knee replacement, combined with a 46 percent impairment due to loss of range of motion under the previous edition of the A.M.A., *Guides*. Second, because appellant's result was "not entirely good," Dr. deAndrade rated the impairment from total knee replacement at 38 percent under Table 64, page 85, or 1 percent more than Table 64 allows for a good result. She did not follow the rating procedure at Table 66, page 88, or otherwise justify this modification of Table 64. Third, Dr. deAndrade failed to explain the reason appellant should receive an impairment rating based on both a total knee replacement and a patellectomy, particularly when appellant had an implant of an allograft patella subsequent to the total knee replacement.

Because Dr. deAndrade's rating of 60 percent does not appear well reasoned or in keeping with the procedures set forth in the fourth edition of the A.M.A., *Guides*, this rating is of little probative value and is insufficient to establish that appellant has more than a 57 percent impairment of the left lower extremity.

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<sup>5</sup> 5 U.S.C. § 8107.

<sup>6</sup> 20 C.F.R. § 10.404.

The April 14, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC  
April 16, 2001

Willie T.C. Thomas  
Member

Bradley T. Knott  
Alternate Member

Priscilla Anne Schwab  
Alternate Member