

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DONALD E. CHAMBERS and U.S. POSTAL SERVICE,
GENERAL POST OFFICE, Kansas City, MO

*Docket No. 01-928; Submitted on the Record;
Issued December 6, 2001*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant had more than a 10 percent permanent impairment of the left upper extremity for which he received a schedule award.

On February 11, 1996 appellant, then a 36-year-old laborer-custodian, sustained a left shoulder strain in the performance of duty when he lifted a container of paper.

In a report dated September 11, 1996, Dr. Cris D. Barnthouse, appellant's attending Board-certified orthopedic surgeon, provided findings on examination and stated that appellant had a five percent permanent impairment of the left upper extremity at the shoulder level.

On August 18, 1998 appellant filed a claim for a schedule award.

In a report dated November 18, 1998, Dr. George Varghese, a physician and professor specializing in rehabilitation medicine and an Office referral physician, provided findings on examination and stated that appellant had a five percent permanent impairment of the left upper extremity based on the fourth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* based on loss of flexion and pain.

By decision dated January 15, 1999, the Office granted appellant a schedule award for 15.60 weeks based on a 5 percent permanent impairment of the left upper extremity

On April 8, 1999 appellant sustained a strain and tendinitis of the left shoulder in the performance of duty. The files for the February 11, 1996 and April 8, 1999 injuries were combined on August 10, 1999.

On August 16, 1999 appellant underwent left shoulder surgery consisting of left shoulder arthroscopy, subacromial decompression and distal clavicle resection.

In a report dated November 17, 1999, Dr. Barnthouse stated that appellant had a 10 percent permanent impairment of the left upper extremity for a distal clavicle resection according to the fourth edition of the A.M.A., *Guides*.

In a report dated November 6, 2000, an Office district medical adviser stated that appellant had a 10 percent permanent impairment of the left upper extremity based on Dr. Barnthouse's November 17, 1999 report and Table 27 at page 61 of the A.M.A., *Guides*, fourth edition.

In a report dated January 10, 2001, the district medical adviser stated that appellant was entitled to an additional schedule award of 5 percent, out of the 10 percent total impairment of the left upper extremity determined by Dr. Barnthouse, because he had previously received a schedule award for a 5 percent permanent impairment of the left upper extremity.

By decision dated February 6, 2001, the Office granted appellant a schedule award for an additional five percent permanent impairment of the left upper extremity for the period November 17, 1999 to March 5, 2000.

The Board finds that appellant had no more than a 10 percent permanent impairment of the left upper extremity for which he received a schedule award.

The schedule award provisions of the Federal Employees' Compensation Act¹ and its implementing regulation² set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss, or loss of use, of scheduled members or functions of the body. However, the Act does not specify the manner in which the percentage of loss shall be determined. 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. The A.M.A., *Guides* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.

Before the A.M.A., *Guides* may be utilized, however, a description of appellant's impairment must be obtained from appellant's attending physician. The Federal (FECA) Procedure Manual provides that in obtaining medical evidence required for a schedule award the evaluation made by the attending physician must include a "detailed description of the impairment which includes, where applicable, the loss in degrees of active and passive 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."³ 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 restrictions and limitations.⁴

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.404 (1999).

³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Award and Permanent Disability Claims*, Chapter 2.808.6c (March 1995); see *John H. Smith*, 41 ECAB 444, 448 (1990).

⁴ See *Alvin C. Lewis*, 36 ECAB 595, 596 (1985).

In this case, the record shows that on February 11, 1996 appellant sustained a left shoulder strain in the performance of duty and, by decision dated January 15, 1999, received a schedule award based on a five percent permanent impairment of the left upper extremity. On April 8, 1999 appellant sustained a strain and tendinitis of the left shoulder in the performance of duty and underwent surgery on August 16, 1999 consisting of arthroscopy, subacromial decompression and a distal clavicle resection.

In a report dated November 17, 1999, Dr. Barnthouse, appellant's attending Board-certified orthopedic surgeon, stated that appellant had a 10 percent permanent impairment of the left upper extremity for a distal clavicle resection according to the fourth edition of the A.M.A., *Guides*.

In reports dated November 6, 2000 and January 10, 2001, the district medical adviser correctly stated that appellant was entitled to an additional schedule award of five percent based on Dr. Barnthouse's November 17, 1999 report and Table 27 at page 61 of the A.M.A., *Guides*, fourth edition. As appellant was previously granted a schedule award for a five percent permanent impairment of the left upper extremity, he was entitled to receive an additional schedule award of five percent. There is no medical evidence of record establishing that appellant has more than a five percent additional permanent impairment of the left upper extremity.

The decision of the Office of Workers' Compensation Programs dated February 6, 2001 is affirmed.

Dated, Washington, DC
December 6, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member