

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JANET L. ADAMSON and DEPARTMENT OF DEFENSE,
DEFENSE SUPPLY CENTER, Columbus, OH

*Docket No. 00-1771; Submitted on the Record;
Issued July 10, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has more than a five percent permanent impairment of her right upper extremity, for which she received a schedule award.

The Office of Workers' Compensation Programs accepted that in February 1998 appellant, then a 39-year-old store checker, sustained carpal tunnel syndrome of her right wrist for which she underwent surgery on April 6, 1998. Following the April 6, 1998 right wrist carpal tunnel release, appellant accepted and returned to light-duty work on December 10, 1999 as an identification checker.

On July 6, 1999 appellant filed a Form CA-7 claim for a schedule award for permanent impairment of her right wrist.

By report dated June 7, 1999, Dr. Kenneth B. Cobbs, a Board-certified orthopedic surgeon, noted that appellant had loss of range of motion of the right wrist and painful scarring. He opined that appellant had a six percent permanent impairment of her right hand, equivalent to a five percent impairment of her right upper extremity.

By report dated February 14, 2000, Dr. Cobbs stated that the date of appellant's maximum medical improvement was October 10, 1999. He listed active range of right wrist motion as follows: 8 degrees radial deviation; 12 degrees ulnar deviation; 15 degrees dorsiflexion; 15 degrees palmar flexion; 10 degrees pronation; and 45 degrees supination. Dr. Cobbs noted that there was no ankylosis, but that appellant had dysesthesias in the median nerve distribution. However, no impairment rating estimate was given nor were the American Medical Association (A.M.A.), *Guides to the Evaluation of Permanent Impairment* specifically referenced.

On February 18, 2000 an Office medical adviser questioned the accuracy of Dr. Cobbs' range of motion values in relation to appellant's carpal tunnel surgery. He recommended a

second opinion evaluation and noted that Table 16 of the fourth edition of the A.M.A., *Guides* was the usual rating reference.

On February 24, 2000 a physical therapist reported that Dr. John E. Keiter, a Board-certified plastic surgeon, requested evaluation of appellant. He listed findings on range of motion and findings for sensation and grip strength for both of appellant's upper extremities. However, no percentages of impairment were given and no date of maximum medical improvement was specified.¹

On March 3, 2000 the same Office medical adviser reviewed the February 24, 2000 physical therapist's report. He again questioned the accuracy of the range of motion values, noting the report was not from a physician and that only the range of motion measurements in the right wrist were ratable impairments for appellant's carpal tunnel syndrome. The Office medical adviser calculated that appellant had a seven percent permanent impairment of the right arm based on loss of range of motion and listed the date of maximum medical improvement as March 24, 2000.² The Office medical adviser reiterated the need for a second opinion examination.

An Office claims examiner reviewed the Office medical adviser's March 3, 2000 report and characterized the Office medical adviser's estimate of the date of maximum medical improvement as "futuristic." The claims examiner determined the date of maximum medical improvement by "split[ting] the difference" between Dr. Cobbs' maximum medical improvement date of October 10, 1999 and the date of the physical therapist's February 24, 2000 report. In reviewing the report, the claims examiner noted that the 7 percent impairment estimated by the Office medical adviser was "well in line with 5 to 10 percent usually arrived at in most post carpal tunnel surgery claims" and saw no reason to delay issuance of a schedule award.

In a March 3, 2000 report, received by the Office on March 20, 2000, Dr. Keiter stated: "The specific perimeters of measurement of range of motion, strength, sensation and coordination share no specific permanent impairment, but because of her multiple surgeries with Raynaud's phenomenon,³ I am giving her a final disability rating estimate, as follows: a five percent disability for her hand which translates to a five percent disability for the upper extremity...." The date of maximum medical improvement was not addressed.

On March 29, 2000 the Office granted appellant a schedule award for a five percent permanent impairment of her right arm for the period December 18, 1999 to April 6, 2000. The date of maximum medical improvement was listed as December 18, 1999.

¹ No referral to the A.M.A., *Guides* was made.

² The Office medical adviser erroneously cited the date of the physical therapist's physical impairment rating as March 24, 2000 instead of February 24, 2000 and evidently based the date of maximum medical improvement on that date.

³ Raynaud's phenomenon and disease involves spasm of arterioles, usually in the digits, with intermittent pallor or cyanosis of the skin. See The Merck Manual, *Peripheral Vascular Disorder*, Chapter 25, p. 583 (16th ed. 1992).

The Board finds that this case is not in posture for decision.⁴

The schedule award provision of the Federal Employees' Compensation Act⁵ and its implementing regulations⁶ 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.⁷ 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.⁸

Although the standards for evaluating the permanent impairment of an extremity under the A.M.A., *Guides* are based primarily on loss of range of motion, all factors that prevent a limb from functioning normally, including pain and loss of strength, should be considered, together with loss of motion, in evaluating the degree of permanent impairment.⁹ Chapter 3.1h of the A.M.A., *Guides* provides a grading scheme and procedure for determining impairment of the upper extremity due to pain, discomfort, loss of sensation, or loss of strength.¹⁰

In this case, the Office claims examiner issued a schedule award for appellant's right upper extremity despite the Office medical adviser's repeated notations that he questioned the accuracy of the range of motion values of record and recommended further evaluation of appellant for schedule award purposes.¹¹ In light of the Office medical adviser's characterization of the medical evidence of record, the Board finds that the Office claims examiner issued the schedule award prematurely as the medical opinion evidence was not sufficiently developed to provide a reliable estimate of impairment for appellant's right upper extremity.¹² The medical

⁴ No final decision on appellant's April 27, 2000 request for a schedule award for her left hand has been rendered and that issue is not before the Board on this appeal. See 20 C.F.R. § 501.2(c) and 20 C.F.R. § 10.626 (1999).

⁵ 5 U.S.C. § 8101 *et seq.*; see 5 U.S.C. § 8107(c).

⁶ 20 C.F.R. § 10.404 (1999).

⁷ 5 U.S.C. § 8107(c)(19).

⁸ See *James J. Hjort*, 45 ECAB 595 (1994); *Thomas D. Gauthier*, 34 ECAB 1060 (1983).

⁹ See *Paul A. Toms*, 28 ECAB 403 (1987).

¹⁰ A.M.A., *Guides*, Tables 10 & 11, page 42 (4th ed. 1993).

¹¹ The Board notes that impairment due to carpal tunnel syndrome may be evaluated by two separate methods under the fourth edition of the A.M.A., *Guides*: Under Table 16, "Upper Extremity Impairment Due to Entrapment Neuropathy," or the alternate method of grading the nerve root impairment by identifying the nerve and evaluating the degree of pain and loss of strength using Tables 11, 12 and 15 as appropriate. *Michael D. Nielsen*, 49 ECAB 453 (1998).

¹² Where residuals of an injury to a member of the body specified in the schedule provisions of the Act extend into an adjoining area of a member also enumerated in the schedule, such as a hand into the arm, the schedule award should be made on the basis of the percentage loss of use of the larger member. *Tonya D. Bell*, 43 ECAB 845 (1992).

evidence of record does not provide an accurate or reliable description of the residuals of appellant's accepted condition such that the Board can clearly visualize the impairment with its resulting restrictions and limitations.¹³

As the determination of the degree of appellant's permanent impairment was not based on a proper application of the A.M.A., *Guides*, the schedule award will be set aside. Further, as the date of maximum medical improvement was not based upon any specific medical evidence of record; it was improperly determined and should be further evaluated upon return of the case record.

The case will be remanded to the Office for further development to determine appellant's degree of permanent impairment and the date of maximum medical improvement.

The decision of the Office of Workers' Compensation Programs dated March 29, 2000 is hereby set aside and the case is remanded for further development in accordance with this decision of the Board.

Dated, Washington, DC
July 10, 2001

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

Michael E. Groom
Alternate Member

¹³ See *James E. Archie*, 43 ECAB 180 (1991).