

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of LINWOOD GREENWOOD and U.S. POSTAL SERVICE,  
POST OFFICE, Philadelphia, PA

*Docket No. 99-232; Submitted on the Record;  
Issued March 22, 2001*

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DECISION and ORDER

Before MICHAEL E. GROOM, BRADLEY T. KNOTT,  
A. PETER KANJORSKI

The issue is whether appellant has more than a 21 percent impairment of the right leg for which he received a schedule award.

On May 11, 1991 appellant, then a 42-year-old letter carrier, ruptured his right Achilles tendon while delivering his mail route. The Office of Workers' Compensation Programs accepted the claim and appellant received appropriate benefits for intermittent periods of disability. Appellant had surgery to repair the tendon on May 29, 1991. In an October 15, 1991 report, Dr. Henry H. Sherk, appellant's attending orthopedic surgeon, noted that appellant's incision had healed with the tendon appearing well reconstituted. He noted that appellant was receiving physical therapy to maximize calf strength and that appellant walked with a minimal, if any, limp. In June 1992, appellant returned to work in a modified limited-duty position as a part-time mail router, with no prolonged walking or standing.

On September 26, 1997 appellant filed a claim for a schedule award.

On April 2, 1998 an Office medical adviser reviewed the file and noted that the most recent medical reports did not address maximum medical improvement of appellant's right ankle. On April 7, 1998 the Office referred appellant to Dr. Frank A. Mattei, a Board-certified orthopedic surgeon, for an evaluation of the extent and nature of appellant's right ankle impairment.

In an April 29, 1998 report, Dr. Mattei reviewed appellant's history of injury and set forth his findings on examination of appellant's right ankle. He noted appellant stood 6'4" and weighed 260 pounds, finding obvious deformities of both knee joints and the right ankle joint. Dr. Mattei described 3 centimeter swelling of the right ankle joint with a scar formation, which was nontender. Appellant's range of motion was limited by 10 degrees in flexion; 10 degrees in extension, noting appellant reported difficulty pushing off on his right foot. Inversion and eversion of the ankle were reported as 20 degrees, which Dr. Mattei noted was normal when compared to the left ankle. He estimated that appellant's loss of function due to limitation in

motion was 37 percent and 7 percent impairment for muscle atrophy and weakness. Dr. Mattei noted that appellant had degenerative arthritis of the lumbosacral spine and of both knee joints, which caused appellant the greatest problems. He concluded by stating that appellant had an impairment of approximately 27 percent of the right lower extremity.

On June 3, 1998 the Office medical adviser reviewed Dr. Mattei's report to determine the extent of impairment in conformance with the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.<sup>1</sup> For loss of range of ankle motion, the Office medical adviser noted that Figure 42 at page 78 provided impairment of mild to moderate ratings for loss of flexion and extension. He found that appellant's 10 degrees loss of flexion resulted in 15 percent impairment of the lower extremity.<sup>2</sup> Under the A.M.A., *Guides*, the Office medical adviser noted that appellant's inversion and eversion findings were normal and there was no impairment.<sup>3</sup> In the assessment for appellant's muscle weakness and gait disturbance, the Office medical adviser noted that under FECA Bulletin No. 95-17, Table 39 -- Impairments from Lower Extremity Muscle Weakness could not be used in conjunction with Table 36 -- Lower Limb Impairment from Gait Derangement.<sup>4</sup> The medical adviser applied Table 36 to rate appellant's mild gait derangement as 7 percent impairment. He then applied Table 20 at page 59 to rate impairment due to swelling of the ankle joint. However, it was noted that the A.M.A., *Guides* provide that Table 20 is to be applied to estimate impairment only when there is full range of motion. As appellant had loss of range of motion, the medical adviser noted that no impairment rating for swelling was applicable. The Office medical adviser applied the Combined Values Chart to combine the 15 percent for loss of range of motion with the 7 percent impairment for gait disturbance, resulting in a 21 percent impairment of the right leg due to appellant's accepted ankle injury.<sup>5</sup>

By decision dated July 20, 1998, the Office granted appellant a schedule award for 21 percent impairment of his right lower extremity. The period of the award ran for 60.48 weeks of compensation.

The Board finds that appellant has no more than a 21 percent impairment of his right lower extremity, for which he received a schedule award.

The schedule award provisions of the Federal Employees' Compensation Act and its implementing regulations set forth the number of weeks of compensation to be paid for

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<sup>1</sup> American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4<sup>th</sup> ed. 1993).

<sup>2</sup> He noted that the 10 degrees loss of extension resulted in 7 percent, or mild, impairment under the same table. The medical adviser used the loss of motion rating for the flexion impairment to reflect higher, or moderate, impairment for loss of motion.

<sup>3</sup> Table 43, Hindfoot Impairment Estimates, p. 78.

<sup>4</sup> FECA Bulletin No. 95-17, issued March 22, 1995 addresses the alternative methods under which schedule awards may be made. It notes that certain tables in the A.M.A., *Guides* have overlapping applications under the diagnosis-based method of determining impairment. When a table based on a specific diagnosis is used, no additional increment for pain or loss of strength should be included in the determination of impairment.

<sup>5</sup> Combined Values Chart, p. 322.

permanent loss or loss of use of specific members of the body listed in the schedule.<sup>6</sup> The Act, however, does not specify the manner in which the percentage loss of a member shall be determined. As a matter of administrative practice to ensure consistent results and equal justice under the law to all claimants, the A.M.A., *Guides* have been adopted as a single set of tables and uniform standards.<sup>7</sup> The A.M.A., *Guides* have been adopted by the Office for evaluating schedule losses and the Board had concurred in such adoption.<sup>8</sup>

Where the loss of use of a scheduled member is less than 100 percent, the amount of compensation paid under a schedule award is paid in proportion to the percentage loss of use. For loss of use of a leg, the Act provides a maximum of 288 weeks of compensation for complete loss of use. A 21 percent impairment of the leg would be a proportionate 60.48 weeks of compensation, as was the award granted to appellant.

In this case, the Office medical adviser properly applied the A.M.A., *Guides* to the physical examination results reported by Dr. Mattei who found that appellant had loss of range of motion to his right ankle and muscle weakness of the right calf area which resulted in a disturbance of gait. However, the physician did not explain how he applied the tables and protocols of the A.M.A., *Guides* to conclude that appellant had a 27 percent impairment of his right lower extremity. In such case, the Board has held that when an examining physician's report gives an estimate of impairment but does not indicate how the estimate is based on the application of the A.M.A., *Guides*, the Office may follow the advice of its medical adviser.<sup>9</sup> The Office medical adviser, in reducing the impairment rating to 21 percent, noted his application of FECA Bulletin No. 95-17 in assessing the impairment due to loss of strength and gait derangement. Given appellant's complaint of a difficulty in pushing off on his right foot when walking, the Board finds that the Office medical adviser properly applied the A.M.A., *Guides* to rate appellant's muscle weakness under the gait derangement table. The medical adviser further noted that, due to loss in range of motion, Table 20 was not applicable to rate appellant's ankle swelling. The A.M.A., *Guides* provide that joint swelling is usually estimated through loss of motion and Table 20 is restricted from application when there is not a full range of motion.<sup>10</sup> For these reasons, the Board finds that the medical evidence of record establishes no greater than a 21 percent impairment of the right lower extremity, for which appellant received a schedule award.

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<sup>6</sup> 5 U.S.C. § 8107(c); 20 C.F.R. § 10.304.

<sup>7</sup> See *James A. England*, 47 ECAB 115 (1995); *Henry L. King*, 25 ECAB 39 (1973); *August M. Buffa*, 12 ECAB 324 (1961).

<sup>8</sup> See *Thomas D. Gunthier*, 34 ECAB 1060 (1983).

<sup>9</sup> See *Paul R. Evans*, 44 ECAB 646 (1993).

<sup>10</sup> Joint Swelling Due to Synovial Hypertrophy, p. 59.

The July 20, 1998 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC  
March 22, 2001

Michael E. Groom  
Alternate Member

Bradley T. Knott  
Alternate Member

A. Peter Kanjorski  
Alternate Member