

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BLANCA POWERS and DEPARTMENT OF THE TREASURY,
BUREAU OF CUSTOMS, El Paso, TX

*Docket No. 01-589; Submitted on the Record;
Issued November 28, 2001*

DECISION and ORDER

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

The issue is whether appellant has more than a 14 percent permanent impairment to the right arm, 40 percent to the left leg, or 45 percent to the right leg, for which she has received schedule awards.

The Office of Workers' Compensation Programs has accepted that appellant sustained bilateral contusions and strains to her knees and arms, with right carpal tunnel release and right knee arthroscopy. By decision dated November 3, 1992, the Office issued a schedule award for a 13 percent impairment to the right hand, or 31.72 weeks of compensation. On February 3, 1993 the Office issued a schedule award for a 40 percent permanent impairment, or 115.2 weeks of compensation of the left leg. In a decision dated October 26, 1995, the Office issued a schedule award for a 14 percent impairment to the right arm, or 11.96 weeks of compensation in addition to the 31.72 weeks previously awarded for the right hand. On September 16, 1996 the Office issued a schedule award for a 45 percent permanent impairment to the right leg (129.6 weeks of compensation).

In a decision dated November 14, 2000, the Office found that appellant had not established that she was entitled to an additional schedule award.

The Board finds that appellant has not established a permanent impairment greater than 14 percent for the right arm, 40 percent for the left leg, or 45 percent for the right leg.

Section 8107 of the Federal Employees' Compensation Act provides that, if there is permanent disability involving the loss or loss of use of a member or function of the body, the claimant is entitled to a schedule award for the permanent impairment of the scheduled member or function.¹ Neither the Act nor the regulations specify the manner in which the percentage of

¹ 5 U.S.C. § 8107. This section enumerates specific members or functions of the body for which a schedule award is payable and the maximum number of weeks of compensation to be paid; additional members of the body are found at 20 C.F.R. § 10.404(a).

impairment for a schedule award shall be determined. The Office has adopted the American Medical Association, *Guides to the Evaluation of Permanent Impairment* as the uniform standard applicable to all claimants.²

In this case, appellant submitted a report dated October 7, 2000 from Dr. Robert R. Bell, an orthopedic surgeon, who opined that appellant had a two percent impairment for sensory deficits in the right arm, one percent for elbow flexion contracture, and a two percent arm impairment for loss of range of motion in the thumb. Dr. Bell did not address appellant's impairment of either lower extremity. In a report dated November 8, 2000, an Office medical adviser concurred that under the A.M.A., *Guides* the impairment described was five percent for the right arm. The Office medical adviser identified Table 15 for ulnar nerve sensory deficit,³ Figure 32 for elbow extension⁴ and Figure 13 for the thumb.⁵ The medical adviser determined that, based on Dr. Bell's report, appellant had a total of five percent impairment of the right arm.

Dr. Bell did not describe any additional impairment to the right arm.⁶ As stated earlier, appellant had previously received a schedule award for a 14 percent permanent impairment to the right arm. She did not submit probative medical evidence describing a permanent impairment greater than 14 percent to the right arm and therefore the Office properly denied an additional schedule award.

² See 20 C.F.R. § 10.404.

³ A.M.A., *Guides* (4th ed. 1993), 54.

⁴ *Id.* at § 40.

⁵ *Id.* at § 27.

⁶ Appellant submitted additional evidence on appeal; the Board's jurisdiction, however, is limited to evidence that was before the Office at the time of the final decision. 20 C.F.R. § 501.2(c). The Board cannot review new evidence on this appeal.

The decision of the Office of Workers' Compensation Programs dated November 14, 2000 is affirmed.

Dated, Washington, DC
November 28, 2001

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

Michael E. Groom
Alternate Member