

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RICHARD S. GREEN and U.S. POSTAL SERVICE,
POST OFFICE, Portland, OR

*Docket No. 01-819; Submitted on the Record;
Issued November 27, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant has more than an eight percent permanent impairment of the right upper extremity, for which he received a schedule award.

On February 12, 1997 appellant, then a 50-year-old mail carrier, filed an occupational disease claim asserting that his right arm condition on or about May 17, 1996 was related to his federal employment. The Office of Workers' Compensation Programs accepted his claim for right cubital tunnel syndrome and right rotator cuff tendinitis. The Office approved right shoulder surgeries.¹

On June 24, 1999 appellant saw his attending physician, Dr. Richard H. Edelson, a Board-certified orthopedic surgeon, for a disability rating on his right shoulder. He advised that he did not do specific impairment ratings and referred appellant instead to Dr. Janet E. Ploss for an impairment rating examination.

On July 26, 1999 Dr. Ploss evaluated appellant's right shoulder and reported the following ranges of motion: flexion, 134 degrees; extension, 53.5 degrees; abduction, 108 degrees; adduction, 22 degrees; internal rotation, 33 degrees; and external rotation, 73 degrees. Dr. Ploss also evaluated appellant's right elbow: flexion, 128 degrees; extension, zero degrees; pronation, 80 degrees; and supination, 90 degrees. Positive clinical findings included right biceps tenderness and paresthesia in the right fifth finger on palpation over the right biceps tendon. Based on the American Medical Association (A.M.A.), *Guides to the Evaluation of Permanent Impairment* (4th ed. 1995), Dr. Ploss determined that appellant had a 12 percent permanent impairment of the right upper extremity due to right shoulder deficits. He offered no impairment rating due to right elbow deficits because it was "medically probable" that

¹ Appellant also filed a claim for a traumatic injury occurring on May 17, 1996. The Office accepted this claim for right elbow neuritis.

appellant's former work as a mailhandler was no longer "the major contributing cause" of his ongoing elbow and hand symptoms.

An Office medical adviser reviewed Dr. Ploss' findings and determined that appellant had an 11 percent impairment of the right upper extremity due to right shoulder deficits and a 1 percent impairment of the right upper extremity due to right elbow deficits. The Office medical adviser converted these upper extremity impairments to "whole person" impairments and reported that appellant had an eight percent permanent impairment of the whole person.

On February 15, 2000 the Office issued a schedule award for an eight percent permanent impairment of the right arm.

The Board finds that appellant has more than an eight percent permanent impairment of the right upper extremity.

Section 8107 of the Federal Employees' Compensation Act² authorizes the payment of schedule awards for the loss or permanent impairment of specified members, functions or organs of the body. The Office has adopted the A.M.A., *Guides* as the standard for determining the percentage of impairment and the Board has concurred in such adoption.³

Figure 38, page 43, of the A.M.A., *Guides* gives a 3 percent impairment of the upper extremity for 134 degrees of shoulder flexion and a 0 percent impairment for 53.5 degrees of shoulder extension.⁴ Figure 41, page 44, gives 3 percent impairment for 108 degrees of abduction and a 1 percent impairment for 22 degrees of shoulder extension. Figure 44, page 45, gives 4 percent impairment for 33 degrees of internal rotation and a 0 percent impairment for 73 degrees of external rotation. Because the relative value of each shoulder functional unit has been taken into consideration in the impairment charts, the impairment values for loss of each shoulder motion are added to determine the impairment of the upper extremity.⁵ Appellant, therefore, has an 11 percent permanent impairment of the right upper extremity due to shoulder loss of motion.

Figure 32, page 40, of the A.M.A., *Guides* gives a 1 percent impairment of the upper extremity for 128 degrees of elbow flexion and a 0 percent impairment for 0 degrees of elbow extension.⁶ Figure 35, page 41, gives a 0 percent impairment for 80 degrees of pronation and a 0 percent impairment for 90 degrees of supination. Because the relative value of each elbow functional unit has been taken into consideration in the impairment charts, the impairment values for loss of each elbow motion are added to determine the impairment of the upper extremity.⁷

² 5 U.S.C. § 8107.

³ See 20 C.F.R. 10.404.

⁴ Measurements are to be rounded to the nearest 10 degrees. A.M.A., *Guides* 42, 43 and 44.

⁵ A.M.A., *Guides* 45.

⁶ Measurements are to be rounded to the nearest 10 degrees. A.M.A., *Guides* 39, 40.

⁷ A.M.A., *Guides* 41.

Appellant, therefore, has a one percent permanent impairment of the right upper extremity due to elbow loss of motion.

Multiple regional impairments, as with those of the hand, wrist, elbow and shoulder, are expressed in terms of impairments of the upper extremity and are combined using the Combined Values Chart on page 322 of the A.M.A., *Guides*.⁸ The 11 percent impairment for loss of shoulder motion and the 1 percent impairment for loss of elbow motion combine for a 12 percent permanent impairment of the right upper extremity.

Appellant has received a schedule award for an eight percent permanent impairment of the right upper extremity. He is, therefore, entitled to an additional schedule award. It appears that the Office mistakenly issued the February 15, 2000 schedule award based on the “whole person” impairments reported by the Office medical adviser. Although the A.M.A., *Guides* permits the evaluation of impairment to both an individual member and the whole person, the Act makes no provision for the latter.⁹ As noted earlier, the Act authorizes the payment of schedule awards for the loss or permanent impairment of specified members, functions or organs of the body.

The Board will modify the Office’s February 15, 2000 decision insofar as it failed to compensate appellant fully for the 12 percent permanent impairment he sustained as a result of his accepted employment injury.

⁸ *Id.* at 24.

⁹ *E.g., John Yera*, 48 ECAB 243 (1996).

The February 15, 2000 decision of the Office of Workers' Compensation Programs is affirmed, as modified.

Dated, Washington, DC
November 27, 2001

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member