U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PATRICIA A. BARNES and DEPARTMENT OF VETERANS AFFAIRS, VETRANS ADMINISTRATION MEDICAL CENTER, Houston, TX

Docket No. 01-283; Submitted on the Record;
Issued October 2, 2001

DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained a ratable impairment of the left upper extremity.

The Office of Workers' Compensation Programs accepted that appellant, then a 41-year-old office automation clerk, sustained left carpal tunnel syndrome while in the performance of duty, necessitating a surgical release on September 18, 1997.

In an April 20, 1998 report, Dr. David T. Netscher, an attending Board-certified plastic surgeon of professorial rank, stated that appellant had reached maximum medical improvement, with "complete recovery after carpal tunnel release." He added that appellant had a zero percent impairment rating according to the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (3d ed.) (the A.M.A., *Guides*). Dr. Netscher found that appellant had made a total "recovery following the carpal tunnel release. She has no residual pain. She has excellent range of motion and restoration of grip strength. Two-point discrimination testing is normal."

In an August 12, 1998 report, Dr. Gerard T. Gabel, an attending Board-certified orthopedic surgeon specializing in hand surgery, found tenderness, "mild instability and pain" in the volar and dorsal aspects of appellant's left wrist. Dr. Gabel diagnosed status post carpal tunnel release, left and right, with "good results," and administered an injection.

August 19, 1998 electromyography (EMG) studies showed "residual median neuropathy at the wrist segment of moderate severity … significantly improved when compared to the study of March 25, 1997."

In a December 29, 1998 report, Dr. Netscher stated that he wanted to rule out thoracic outlet syndrome, as "with shoulder abduction the radial pulse is totally abolished and she has a positive Roos test … [with] significant claudication in the forearm muscles."[1]

By decision dated September 28, 1999, the Office denied appellant's claim for a schedule award, finding that the weight of the medical evidence rested with Dr. Netscher's April 20, 1998 report.

Appellant disagreed and, in an October 22, 1999 letter, requested a hearing, which was held on April 19, 2000. Appellant testified that she continued to experience pain, weakness and paresthesias in her left upper extremity. Following the hearing, appellant submitted additional evidence.

In an April 18, 2000 report, Dr. John T. Burns, an attending Board-certified orthopedic surgeon specializing in hand surgery,[2] noted findings on examination consistent with persistent left carpal tunnel syndrome and left thoracic outlet syndrome and recommended a wrist support. Dr. Burns stated that appellant was able to "[c]ontinue unrestricted work."

May 2, 2000 EMG and nerve conduction velocity (NCV) studies showed "[m]oderate bilateral carpal tunnel syndrome, which was indicated by prolonged median motor and sensory distal latency values recorded bilaterally."

In a May 26, 2000 report, Dr. Burns related that appellant hurt her left arm and wrist at work on April 13, 2000 when she attempted to brace a falling file cabinet. Dr. Burns opined that EMG and NCV testing suggested left carpal tunnel syndrome and left thoracic outlet syndrome.

By decision dated July 10 and finalized July 17, 2000, the Office hearing representative that although Dr. Burns' reports and the May 2, 2000 EMG and NCV studies indicated that appellant had left carpal tunnel syndrome, appellant did not "provide any evidence indicating that she ha[d] an impairment, for which a schedule award is payable."

The Board finds that appellant has not established that she sustained a ratable impairment of the left upper extremity.

The schedule award provisions of the Federal Employees' Compensation Act[3] and its implementing regulations[4] set forth the number of weeks of compensation to be paid for permanent loss, or loss of use of the members of the body listed in the schedule.[5] The Office has

[1] A March 23, 1999 Doppler ultrasound of the left arm showed "no arterial compression with thoracic outlet maneuvers" and no arterial obstruction.

[2] In September 1999, appellant requested to change physicians from Dr. Netscher to Dr. Burns. Appellant asserted that Dr. Netscher did not believe her account of continuing pain and weakness in her left upper extremity.

[3] 5 U.S.C. §§ 8101-93.

[4] 20 C.F.R. § 10.404.

[5] 5 U.S.C. §§ 8107-8109.

adopted by regulations the A.M.A., *Guides* fourth edition, (1993), as a uniform, appropriate standard for evaluating schedule losses.[6]

The standards for evaluating the percentage of impairment of extremities under the A.M.A., *Guides* are based primarily on loss of range of motion. In determining the extent of loss of motion, the specific functional impairments, such as loss of flexion or extension, should be itemized and stated in terms of percentage loss of use of the member in accordance with the tables in the A.M.A., *Guides*.[7] Other factors, such as pain, atrophy and weakness, are also considered and evaluated according to the figures and tables found in the A.M.A., *Guides*.

The only report of record referring to the A.M.A., *Guides* is the April 20, 1998 report from Dr. Netscher, an attending Board-certified plastic surgeon, who found a zero percent impairment according to the A.M.A., *Guides* and stated that appellant had completely and totally recovered from her left carpal tunnel syndrome, with "no residual pain," "excellent range of motion and restoration of grip strength," and no loss of sensation.

Dr. Gabel noted that appellant had tenderness, "mild instability and pain" in the volar and dorsal aspects of the left wrist, but did not diagnose any permanent impairment, or refer to the A.M.A., *Guides* in his report. Similarly, while EMG studies showed moderate residual median neuropathy in the left wrist, there are no medical reports interpreting the EMG findings according to the A.M.A., *Guides*.

The April 18 and May 26, 2000 reports of Dr. Burns as well as the May 2, 2000 electrodiagnostic studies indicated that appellant had persistent left carpal tunnel syndrome, but none of these reports mentions a quantifiable impairment of strength, sensation or motion, or refers to the A.M.A., *Guides*.

Consequently, appellant submitted insufficient medical evidence to establish that she sustained a ratable impairment of the left upper extremity according to the A.M.A., *Guides*.[8]

[6] 20 C.R.F. § 10.404 (1999).

[7] *William F. Simmons*, 31 ECAB 1448 (1980); *Richard A. Ehrlich*, 20 ECAB 246, 249 (1969) and cases cited therein.

[8] Appellant submitted evidence to the Office subsequent to the decision dated July 10 and finalized July 17, 2000. The Board, however, cannot consider this evidence, since the Board's review of the case is limited to the evidence of record which was before the Office at the time of its final decision; *see* 20 C.F.R. § 501.2(c). Appellant may resubmit this evidence to the Office with a formal request for reconsideration; *see* 20 C.F.R. § 501.7(a).

The July 10, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
October 2, 2001

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member