U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CARLTON L. HARRIS, SR. and U.S. POSTAL SERVICE,
EAU CLAIRE POST OFFICE, Columbia, SC

Docket No. 01-1250; Submitted on the Record;
Issued February 6, 2002

DECISION and ORDER

Before ALEC J. KOROMILAS, MICHAEL E. GROOM,
A. PETER KANJORSKI,

The issue is whether appellant has more than a 22 percent permanent impairment of the left arm.

On September 26, 1998 appellant, then a 56-year-old city carrier and clerk, was reaching to hang up a telephone when he felt something snap in his left shoulder. He stopped working that day and returned to work on September 29, 1998.[1] In an October 27, 1998 report, Dr. Robin Daum-Kowalski, a Board-certified radiologist, indicated that a magnetic resonance imaging (MRI) scan of the left shoulder showed a tear of the supraspinatus tendon, a small tear of the anterior insertion infraspinatus and degenerative arthropathy of the acromioclavicular joint. The Office of Workers' Compensation Programs accepted appellant's claim for a rotator cuff tear in the left shoulder. Appellant received continuation of pay intermittent from September 27 through December 4, 1998. The Office began payment of temporary total disability compensation effective December 5, 1998. Appellant underwent surgery for repair of the left shoulder rotator cuff on December 1, 1998. He returned to work on January 4, 2000 to a modified city carrier position offered by the employing establishment.

In an October 31, 2000 decision, the Office issued a schedule award for a 22 percent permanent impairment of the left arm.

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

The schedule award provision of the Federal Employees' Compensation Act[2] and its implementing regulation[3] set forth the number of weeks of compensation payable to employees

[1] The record indicates that appellant had preexisting osteoarthritic changes and rotator cuff tears of the right shoulder. These conditions have not been accepted as employment related.

[2] 5 U.S.C. § 8107.

[3] 20 C.F.R. § 10.404 (1999).

sustaining permanent impairment from loss, or loss of use, of the schedule members or functions of the body. However, the Act does not specify the manner in which the percentage of loss shall be determined. For consistent results and to ensure equal justice under the law for 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 American Medical Association, *Guides to the Evaluation of Permanent Impairment* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.

In a June 28, 2000 report, Dr. Kim J. Chillag, a Board-certified orthopedic surgeon, reported that appellant had the following ranges of motion in the left shoulder, 90 degrees of internal rotation, 0 degrees of external rotation, 45 degrees of flexion, 45 degrees of extension, 45 degrees of abduction and 0 degrees of adduction. Dr. Chillag also indicated that appellant had weakness, atrophy and pain in the left shoulder. He commented that appellant's symptoms had progressively worsened and concluded that appellant had a total impairment of 50 percent of the left upper extremity. Dr. Chillag did not correlate his estimates of impairment with the A.M.A., *Guides*.

The Office referred appellant, together with a statement of accepted facts and the case record, to Dr. E. Neal Powell, Jr., a Board-certified orthopedic surgeon, for an examination and second opinion. In a September 5, 2000 report, Dr. Powell reported the following ranges of motion; 80 degrees of internal rotation, 0 degrees of external rotation, 40 degrees of flexion, 30 degrees of extension, 30 degrees of abduction and 0 degrees of adduction. He indicated that appellant had persistent pain in the left shoulder, with or without motion, but worsened with motion. Dr. Powell noted that appellant had atrophy of the rotator cuff musculature, significant restriction of motion with pain in the available range of motion. He concluded that appellant had a 22 percent permanent impairment of the left arm.

The Office used Dr. Powell's report as a basis for appellant's schedule award. Dr. Powell properly calculated appellant's permanent impairment on the basis of loss of motion. The A.M.A., *Guides* shows that 80 degrees of internal rotation equals a 0 percent permanent impairment of the arm, 0 degrees of external rotation equals a 2 percent permanent impairment, 40 degrees of flexion equals a 10 percent permanent impairment, 30 degrees of extension equals a 1 percent permanent impairment of the arm, 30 degrees of abduction equals a 7 percent permanent impairment and 0 degrees of extension equals a 2 percent permanent impairment of the arm. Dr. Powell therefore properly found that appellant had a 22 percent permanent impairment of the arm due to loss of motion.

The Board notes, however, that Dr. Powell did not take into account the pain and atrophy he reported in determining the extent of appellant's permanent impairment. When one of the effects of impairment is pain, the examining physician should identify the area of involvement and the nerves that innervate the area; find a value for the maximum loss of function of the affected nerve or nerves due to pain or loss of sensation and motor deficit, if applicable; grade the degree of decreased sensation or pain and the degree of motor deficit; and multiply the value of the affected nerve by the grade of decreased sensation or pain and the grade of motor deficit to reach a total degree of impairment.[4] Dr. Powell did not determine the full extent of appellant's

[4] *See James R. Bradford,* 48 ECAB 320 (1997) and footnotes cited therein.

permanent impairment of the left arm due to pain or weakness. The case will be remanded for the Office to seek a supplemental report from Dr. Powell and a determination of the extent of appellant's permanent impairment due to pain, weakness and atrophy. After further development as it may find necessary, the Office should issue a *de novo* decision.

The decision of the Office of Workers' Compensation Programs dated October 31, 2000 is hereby set aside and the case remanded for further action as set forth in this decision.

Dated, Washington, DC
February 6, 2002

Alec J. Koromilas
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member