

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of GLORIA M. RODRIGUEZ and U.S. POSTAL SERVICE,  
POST OFFICE, Corpus Christi, TX

*Docket No. 03-2148; Submitted on the Record;  
Issued December 1, 2003*

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DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,  
MICHAEL E. GROOM

The issue is whether appellant is entitled to a schedule award for permanent impairment of her right upper extremity.

On December 18, 1997 appellant, then a 39-year-old automation clerk, filed an occupational disease claim alleging that she sustained carpal tunnel syndrome while in the performance of duty. The Office of Workers' Compensation Programs accepted her claim for right carpal tunnel syndrome. Appellant underwent a right carpal tunnel surgical release on February 19, 1998.

On July 30, 2002 appellant filed a claim for a schedule award. On August 5, 2002 the Office received a November 20, 2001 report from a licensed physical therapist providing results on examination. The physical therapist reported that appellant had an 11 percent permanent impairment of the right upper extremity, 12 percent for the left upper extremity, or a 13 percent whole person impairment, according to the fifth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*).

On August 5, 2002 the Office requested appellant's attending orthopedic surgeon, Dr. Richard Carlson, to provide an assessment of her permanent impairment according to the fifth edition of the A.M.A., *Guides*. In a report dated March 1, 2002, received by the Office on October 22, 2002, Dr. Carlson stated that appellant had a 13 percent whole body impairment due to her carpal tunnel syndrome. He provided no physical findings and did not indicate how he determined the impairment rating.

By decision dated October 28, 2002, the Office denied appellant's claim for a schedule award on the grounds that the medical evidence was not sufficient to establish that appellant had a permanent impairment of the right upper extremity causally related to her employment injury.<sup>1</sup>

The Board finds that appellant has not established entitlement to a schedule award for a permanent impairment to her right arm.

The schedule award provisions of the Federal Employees' Compensation Act<sup>2</sup> and its implementing regulation<sup>3</sup> set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss, or loss of use, of scheduled 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 to 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 A.M.A., *Guides* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.

In this case, appellant submitted an impairment rating of her right upper extremity from a physical therapist. However, the Board notes that a physical therapist is not a physician as defined under the Act. A "physician" includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by state law and chiropractors only to the extent that their reimbursable services are limited to treatment of a subluxation as demonstrated by x-ray to exist.<sup>4</sup> Lay individuals, such as physician's assistants, nurse practitioners, social workers, and physical therapists are not competent to render a medical opinion.<sup>5</sup> Therefore, the impairment rating from the physical therapist does not constitute probative medical opinion evidence.

The November 20, 2001 report from the physical therapists suggests that it was prepared for the attending physician, Dr. Carlson.<sup>6</sup> In a March 1, 2002 report, Dr. Carlson opined that appellant had a 13 percent whole body impairment due to her carpal tunnel syndrome, without providing results on examination or additional explanation. Although measurements of range of motion by a physical therapist may be used in a permanent impairment evaluation, a physician must certify the accuracy of the findings.<sup>7</sup> Dr. Carlson did not discuss the physical therapist's report, provide a detailed description of the employment-related impairment, or otherwise

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<sup>1</sup> Appellant submitted additional medical evidence subsequent to the Office decision of October 28, 2002. However, the jurisdiction of the Board is limited to the evidence that was before the Office at the time it issued its final decision; see 20 C.F.R. § 501.2(c). This decision does not preclude appellant from submitting additional evidence to the Office with a request for reconsideration of her claim.

<sup>2</sup> 5 U.S.C. § 8107.

<sup>3</sup> 20 C.F.R. § 10.404.

<sup>4</sup> 5 U.S.C. § 8101(2).

<sup>5</sup> *Robert J. Krstyen*, 44 ECAB 227 (1992); *Arnold A. Alley*, 44 ECAB 912 (1992).

<sup>6</sup> The initial section of the report lists Dr. Carlson as the physician.

<sup>7</sup> See, e.g., *Jerre R. Rinehart*, 45 ECAB 518, 521 (1994).

provide a reasoned medical opinion on the issue presented. As Dr. Carlson did not provide a reasoned medical opinion based on the A.M.A., *Guides*, his report is insufficient to establish appellant's entitlement to a schedule award for impairment to her right upper extremity.<sup>8</sup>

The decision of the Office of Workers' Compensation Programs dated October 28, 2002 is affirmed.

Dated, Washington, DC  
December 1, 2003

Alec J. Koromilas  
Chairman

David S. Gerson  
Alternate Member

Michael E. Groom  
Alternate Member

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<sup>8</sup> The Board notes also that a schedule award is not payable under section 8107 of the Act for an impairment of the whole person. See *Gordon G. McNeill*, 42 ECAB 140 (1990).