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<b>KIYOMI JUSTINE CARDELLA, Appellant</b>	)	
	)	
<b>and</b>	)	<b>Docket No. 04-326</b>
	)	<b>Issued: March 25, 2004</b>
<b>U.S. POSTAL SERVICE, POST OFFICE,</b>	)	
<b>Tustin, CA, Employer</b>	)	
	)	

*Case Submitted on the Record*

Before:  
ALEC J. KOROMILAS, Chairman  
DAVID S. GERSON, Alternate Member  
WILLIE T.C. THOMAS, Alternate Member

On October 20, 2003 appellant filed a timely appeal from a merit decision of the Office of Workers' Compensation Programs decision dated May 17, 2003. Under 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

On April 24, 2002 appellant, then a 34-year-old letter carrier, filed a traumatic injury claim alleging that she injured her arm and wrist while picking up a package of magazines earlier that same day. The Office accepted her claim for left wrist strain and paid appropriate compensation.

On August 7, 2002 appellant filed a claim for a schedule award. She submitted an August 6, 2002 report from Dr. Carlos A. Prietto, her treating Board-certified orthopedic surgeon. He stated that appellant's left upper extremity examination was essentially normal, finding no tenderness throughout the shoulder, a full range of motion with no impingement and normal strength. Her elbow was also normal in appearance, palpation and range of motion. The left forearm was normal and her left wrist was normal except for a small area of atrophy of the left volar forearm, which Dr. Prietto believed may be related to appellant's right hand dominance. He also noted minimal weakness of possibly 5 to 10 percent left grip versus right. Dr. Prietto restricted appellant from leaning on her left wrist, with no repetitive or continual left wrist work and no constant left hand gripping. He then released her from medical care.

In a report dated December 28, 2002, an Office medical adviser reviewed appellant's file including Dr. Prietto's August 6, 2002 report and determined that appellant's impairment rating for the left upper extremity was zero percent.

By decision dated May 17, 2003, the Office denied appellant's claim for a schedule award on the grounds that the medical evidence did not demonstrate a ratable level of impairment in the use of the left wrist.

### **LEGAL PRECEDENT**

Section 8107 of the Federal Employees' Compensation Act sets forth the number of weeks of compensation to be paid for the permanent loss or loss of use of specified members, function and organs of the body.<sup>1</sup> The Act, however, does not specify the manner by which the percentage loss of a member, function or organ shall be determined. To ensure consistent results and equal justice under the law, good administrative practice requires the use of uniform standards applicable to all claimants. The implementing regulations have adopted the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*) as the appropriate standard for evaluating schedule losses.<sup>2</sup> Effective February 1, 2001, schedule awards are determined in accordance with the fifth edition 2001 of the A.M.A., *Guides*.<sup>3</sup>

### **ANALYSIS**

In this case, Dr. Prietto, appellant's treating physician, stated in an August 6, 2002 report that appellant had no objective findings of impairment of the left upper extremity except for left volar forearm atrophy, which he did not relate to her employment. He also noted a minimal weakness of the left grip, which he did not find was causally related. Dr. Prietto characterized appellant's left forearm strain as "almost completely resolved." The Office medical adviser reviewed his report and found no evidence of impairment due to loss of range of motion, no impairment due to sensory deficit or pain and no loss of strength. Accordingly, the Office

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<sup>1</sup> The Act provides that, for a total, or 100 percent loss of use of an arm, an employee shall receive 312 weeks of compensation. 5 U.S.C. § 8107(c)(1).

<sup>2</sup> 20 C.F.R. § 10.404 (1999).

<sup>3</sup> FECA Bulletin No. 01-05 (January 29, 2001); Federal Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 (June 2003).

medical adviser concluded that appellant had reached maximum medical improvement and had a zero percent impairment of her left upper extremity. As neither Dr. Prietto nor the Office medical adviser found evidence of permanent impairment, the Office properly denied appellant's claim for a schedule award.

### **CONCLUSION**

Based on the opinion of the Office medical adviser and the lack of medical evidence in the record to establish permanent impairment of the left upper extremity, the Office properly denied appellant's claim for a schedule award.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the May 17, 2003 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 25, 2004  
Washington, DC

Alec J. Koromilas  
Chairman

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member