

dated August 21, 1998, an Office hearing representative vacated the June 2, 1997 Office decision and accepted appellant's claim for mild right carpal tunnel syndrome. Appellant underwent right carpal release on August 13, 1999.

In a letter dated June 18, 2000, appellant informed the Office that she intended to file a Form CA-7 claim for a schedule award.¹

In a report dated January 18, 2001, Gretchen Maurer, a hand therapist, found that appellant had a three percent impairment of the right upper extremity based on the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*), (fifth edition). Ms. Maurer derived a 2 percent impairment due to range of motion based on a slight decrease in wrist extension at 55 degrees; 0 percent impairment due to decreased handgrip strength; and a 1 percent impairment due to decreased sensibility/paresthesias of the right upper extremity based on the A.M.A., *Guides*. She stated:

“Using [T]able 16-10, page 482 of the A.M.A., *Guides*, [appellant] was placed into Grade 4, distorted superficial tactile sensibility with minimal abnormal sensations or pain and was given a 3 percent value. Then, using [Table] 16-15, page 492 of the A.M.A., *Guides*, the maximum percent value given to the upper extremity due to sensory deficit or pain in the median nerve is 39 percent. Three percent of [thirty-nine percent] was then taken to obtain a one percent loss due to paresthesias. The final percent was then determined by combining the range of motion loss of two percent along with the sensibility disturbance of one percent to obtain a final three percent loss to the right upper extremity.”

In a report dated January 31, 2001, Dr. Tad E. Grenga, Board-certified in plastic surgery, stated that based on the examination findings recorded on January 17, 2001 appellant had a three percent loss to her right upper extremity pursuant to the A.M.A., *Guides*.

In an impairment evaluation dated May 2, 2001, an Office medical adviser found that appellant had a 10 percent impairment of her right upper extremity based on the A.M.A., *Guides*.

On April 20, 2001 Dr. Grenga performed surgery on appellant for release of right-sided de Quervain's syndrome. On May 7, 2001 the Office expanded appellant's claim to include acceptance of the condition of right de Quervain's syndrome.

On May 8, 2001 the Office granted appellant a schedule award for a 10 percent permanent impairment of the right upper extremity for the period August 3, 2000 to March 9, 2001, for a total of 31.20 weeks of compensation.

On July 11, 2002 appellant filed a Form CA-7 claim for an additional schedule award based on a partial loss of use of her right upper extremity.

¹ The Form CA-7 claim is not contained in the instant record. Nevertheless, the Office proceeded to adjudicate appellant's claim for a schedule award based on partial loss of use of her right upper extremity.

In an October 11, 2002 report, appellant's hand therapist, Ms. Maurer, determined that appellant had an eight percent impairment of the right thumb or a three percent impairment of the right hand. With regard to impairment based on decreased range motion of the right thumb, Ms. Maurer stated:

"The IP joint of the right thumb presented a slight decrease in flexion at 70 degrees to obtain a [1] percent loss; there was also a slight decrease in extension at plus [5] to obtain a [1] percent loss. These two values were then added to obtain a two loss to the IP joint. The MP joint presented decreased flexion at 50 degree to obtain a one percent loss. Extension was within normal limits at zero degrees. Therefore, a one percent loss was given to the MP joint. The right thumb demonstrated decreased radial abduction at 35 degrees to obtain a [3] percent loss. It also showed decreased adduction at two centimeters from distal palmar crease at the base of the small finger to obtain a one percent loss. Thumb opposition was 4.5 centimeters, which was similar to opposition in the left hand; therefore, no percent impairment was attributed."

Ms. Maurer then evaluated impairment due to pain and paresthesias of the right thumb:

"[Appellant] reports pain in the right first dorsal compartment area rate as 4 [to] 5 on the scale of [0] to 10. She states that pain increases with activity and occasionally experiences tingling; pins and needles sensation. A one percent impairment was given due to pain and paresthesias."

Ms. Maurer then added the seven percent loss due to decreased range of motion of the thumb and the one percent loss due to pain and paresthesias to obtain an eight percent loss to the thumb or a three percent loss to the hand.

In a report dated October 28, 2002, Dr. Grena stated that based on Ms. Maurer's findings appellant had a three percent loss to her right upper extremity under the A.M.A., *Guides* due to de Quervain's syndrome.

In a memorandum/impairment evaluation dated February 2, 2004, an Office medical adviser found that appellant had no additional impairment stemming from her accepted conditions. The Office medical adviser stated that recent electromyogram and nerve conduction studies were normal and that there was no evidence of residual carpal tunnel syndrome. Regarding an additional impairment rating based on de Quervain's syndrome, the Office medical adviser stated that the A.M.A., *Guides* indicate that, once an underlying condition had resolved, there was no basis for an impairment rating. He stated that appellant underwent surgical release of the fifth dorsal compartment to treat de Quervain's syndrome on April 20, 2001 and advised that there were no specific measurements indicating any limited motion at the wrist or at the thumb; therefore, there was no basis for an impairment rating for the right upper extremity based on de Quervain's syndrome under the A.M.A., *Guides*.

In a decision dated March 18, 2004, the Office denied appellant's claim for an additional award for the right upper extremity.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act² sets 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. Where the loss of use is less than 100 percent, the amount of compensation is paid in proportion to the percentage loss of use.³ However, the Act does not specify the manner in which the percentage of loss of use of a member is to be determined. For consistent results and to insure equal justice under the law to all claimants, the Office has adopted the A.M.A., *Guides* (fifth edition) as the standard to be used for evaluating schedule losses.⁴

ANALYSIS

The Board finds that the case is not in posture for decision. In the present case, the Office medical adviser found that appellant had already been paid for a permanent impairment to the right upper extremity due to right carpal tunnel syndrome. The Office medical adviser stated that, since both of appellant's accepted conditions, right carpal tunnel syndrome and right de Quervain's syndrome, had resolved, and that there were no specific measurements indicating any limited motion at the wrist or at the thumb, there was no basis for an additional impairment rating for the right upper extremity based on de Quervain's syndrome under the A.M.A., *Guides*. However, as appellant indicated in her appeal to the Board, the report from her hand therapist, Ms. Maurer, specifically made findings based on decreased range of motion of the thumb and pain and paresthesias, which amounted to an eight percent loss to the thumb or a three percent loss to the hand. Dr. Grenga, the attending physician and a Board-certified plastic surgeon, who performed the April 20, 2001 de Quervain's release surgery on appellant, adopted these findings and found that appellant had a three percent loss to her right upper extremity under the A.M.A., *Guides* due to de Quervain's syndrome. Therefore, the medical evidence appellant submitted prior to the Office's March 18, 2004 decision pertains to impairment of the right upper extremity based on de Quervain's syndrome, which the Office did not consider. Accordingly, the Office should have considered the medical evidence she submitted in connection with whether she was entitled to an additional schedule award for the right upper extremity based on her accepted de Quervain's syndrome. The Board therefore finds that the Office erred in failing to consider Ms. Maurer's October 11, 2002 report, adopted by the attending physician, Dr. Grenga, and determine whether appellant was entitled to an additional schedule award for permanent impairment of the right upper extremity.

Accordingly, the Board will set aside the Office's March 18, 2004 decision and remand the case to the Office for further development of the medical evidence and determine whether appellant is entitled to a schedule award for permanent impairment of the right upper extremity. On remand, the Office should instruct Dr. Grenga to provide a well-rationalized, updated medical opinion, to specifically refer to the applicable tables and standards of the A.M.A.,

² 5 U.S.C. §§ 8101-8193; *see* 5 U.S.C. § 8107(c).

³ 5 U.S.C. § 8107(c)(19).

⁴ 20 C.F.R. § 10.404.

Guides in making his findings and conclusions and in rendering his impairment rating and to clearly indicate the specific background upon which he based his opinion.⁵ After such development as it deems necessary, the Office shall issue a *de novo* decision.

CONCLUSION

The Board vacates and remands for further development the Office's determination that appellant is not entitled to any additional award based on impairment to her right upper extremity.

ORDER

IT IS HEREBY ORDERED THAT the March 18, 2004 decision of the Office of Workers' Compensation Programs be set aside and the case remanded to the Office for further action consistent with this decision of the Board.

Issued: August 8, 2005
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

⁵ The Board notes that Dr. Grenga's most recent report was issued on October 28, 2002 and that in order to provide accurate findings regarding appellant's current condition an updated medical evaluation and report is required. The Office should instruct Dr. Grenga, on remand, to issue his impairment in accordance with the fifth edition of the A.M.A., *Guides*.