

On November 3, 2004 appellant filed a Form CA-7 claim for a schedule award based on a partial loss of use of her left and right upper extremities.

In a report dated March 5, 2005, Dr. Mark Goldstein, an osteopath, made the following findings with regard to appellant's right wrist and hand: a 5 degree loss of range of motion for both radial and ulnar deviation of the right wrist; a 40 degree loss of flexion for the metacarpophalangeal (MCP) joint of the index finger; a 45 degree loss of flexion for the proximal interphalangeal (PIP) joint of the index finger; a 40 degree loss of flexion for the distal interphalangeal (DIP) joint of the index finger; a 60 degree loss of flexion for MCP joint of the middle finger; a 20 degree loss of flexion for the PIP joint of the middle finger; a 40 degree loss of flexion for the DIP joint of the middle finger; a 30 degree loss of flexion for the MCP joint of the ring finger; a 60 degree loss of flexion for the PIP joint of the ring finger; a 15 degree loss of flexion for the DIP joint of the ring finger; a 10 degree loss of flexion for the MCP joint of the small finger; a 20 degree loss of flexion for the PIP joint of the small finger; and a 35 degree loss of flexion for the DIP joint of the small finger.

In an impairment evaluation dated June 29, 2005, an Office medical adviser reviewed Dr. Goldstein's findings and applied the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (fifth edition) [A.M.A., *Guides*]. The Office medical adviser made the following findings: One percent impairment each for loss of radial and ulnar deviation pursuant to Figure 16-31 at page 469; for right index/middle finger/ring/small fingers, loss of flexion at the MCP/PIP/DIP joints, which translated to 22/33/21/, 33/12/21, 17/36/7, 6/12/18 percent, pursuant to Figures 19, 21, 23, at pages 32, 33 and 34. Using the Combined Values Chart at page 604, this amounted to a 12/11/5/3 percent hand impairment pursuant to Table 1 at page 18 and 28 percent upper extremity upper extremity. Using the Combined Values Chart, the Office medical adviser found that appellant had a 29 percent right upper extremity impairment under the A.M.A., *Guides*.¹

On August 5, 2005 the Office granted appellant a schedule award for a 29 percent impairment rating for the right upper extremity for the period February 28, 2005 to November 23, 2006 for a total of 87.36 weeks of compensation.

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

¹ The Office medical adviser noted that appellant had a five percent left upper extremity impairment; however, he deferred recommending an award for the left upper extremity because surgery on her left wrist was contemplated for the fall of 2005. Therefore, maximum medical improvement had not been reached.

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

³ 5 U.S.C. § 8107(c)(19).

Office has adopted the A.M.A., *Guides* (5th ed.) as the standard to be used for evaluating schedule losses.⁴

ANALYSIS

The Board finds that the medical evidence of record does not establish that appellant has more than a 29 percent impairment of the right upper extremity. In this case, the Office medical adviser, applying Dr. Goldstein's findings and calculations to the tables and figures of the A.M.A., *Guides*, computed a 29 percent impairment of the right upper extremity based on loss of range of motion of her wrists and fingers. The method for computing impairments based on loss of motion of the hands, wrists and fingers is outlined at section 16.4(c) of the A.M.A., *Guides*, at page 452. The Office medical adviser properly relied on Figure 16-31 at page 469 to calculate a one percent impairment based on degree of loss of radial deviation and a one percent impairment based on loss of ulnar deviation. However, with regard to the findings of impairment based on loss of motion in the right index, middle finger, ring, small fingers, the Office medical adviser did not rely on the proper, figures and tables of the A.M.A., *Guides* pertaining to these digits. She cited to Figures 19, 21, 23, at pages 32, 33 and 34, which are have no bearing on impairments based on the fingers or the upper extremities.

The proper figures for evaluation of finger impairments due to abnormal motion of the DIP joint, PIP joint and MCP joint are Figures 16-21, 16-23 and 16-15 found at pages 461, 463, and 464 of the A.M.A., *Guides*. The Board has evaluated the range of motion findings for the right index, middle finger, ring and small fingers. Pursuant to these figures appellant has a combined impairment value for loss of flexion of the index finger of 55 percent, middle finger 53 percent, ring finger 51 percent and small finger 32 percent. These impairment values for each finger are then converted to an impairment of the hand pursuant to Table 16-1, page 438. Under this table, appellant has a hand impairment of 11 percent impairment due to loss of motion of the index finger, 11 percent due to loss of motion of the middle finger, 5 percent due to loss of motion of the ring finger and 3 percent due to loss of range of motion of the small finger. These hand impairment values are then converted to impairment of the upper extremity pursuant to Table 16-2, page 439. This conversion results in an upper extremity impairment of 10 percent for the index finger, 10 percent for the middle finger, 5 percent for the ring finger and 3 percent for the small finger. These upper extremity impairment values are then added as instructed by section 16.1d, page 440 of the A.M.A., *Guides*. The total upper extremity impairment of 28 percent for impairment of the right hand fingers is then combined with the 2 percent impairment of the right wrist utilizing the Combined Values Chart, at page 604. Pursuant to the Combined Values Chart appellant's total combined impairment of the right upper extremity is 29 percent.

CONCLUSION

Thus, the Board will affirm the schedule award for 29 percent impairment of the right upper extremity as there is no medical evidence of record that appellant has a greater impairment.

⁴ 20 C.F.R. §10.404.

ORDER

IT IS HEREBY ORDERED THAT the August 5, 2005 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 13, 2005
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Willie T.C. Thomas, Alternate Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board