

On May 7, 2002 appellant, then a 46-year-old mail handler, injured her right shoulder in the performance of duty. The Office accepted her claim for right shoulder impingement and adhesive capsulitis. On September 3, 2003 she underwent a closed manipulation and injection. On November 13, 2002 she underwent an operative arthroscopy and arthroscopic repair of a

right anterior labral tear with two Suretac buttons and arthroscopic debridement of the superior labrum. Appellant received compensation for wage loss on the periodic rolls.

On January 31, 2004 appellant filed a claim for a schedule award. The Office asked Dr. John C. Gordon, an orthopedic surgeon, to evaluate any permanent impairment according to the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (5th ed. 2000).

In a report dated May 10, 2004, Dr. Gordon related appellant's history and found that she achieved maximum medical improvement by January 1, 2004. He also described his findings on examination:

"The patient has minus 10 degrees of full external rotation. She has minus 30 degrees of full internal rotation. She can flex to approximately 120 [to] 130 degrees. She can extend to 20 to 30 degrees. Her abduction is to approximately 120 degrees. She has a strength loss of approximately 20 percent. Her grip strength is good. She still complains of tenderness along the shoulder. She will occasionally come home and use some ice on it or a heating pad. If she lifts too much weight she will be achy and sore through the shoulder. She also continues to get achiness up into the neck. She continues to do exercises with her neck and shoulder, to stretch out. Again, she is on a limited duty at work, in which she functions quite well. I would strongly recommend that she remain at that position. The patient does complain of pain in the right shoulder, if she tries to do a lot of lifting *etc.*"

Using this information, Dr. Gordon determined that appellant had a 19 percent permanent impairment of right upper extremity: 9 percent for loss of shoulder motion, 5 percent loss of shoulder strength and 5 percent "for recurring soreness in the right shoulder and some tightness in the neck muscles and a slight loss of range of motion when symptomatic."

An Office medical adviser reviewed Dr. Gordon's findings and determined that appellant had an eight percent impairment of the right upper extremity due to loss of motion. The medical adviser explained that the A.M.A., *Guides* did not permit a rating based on loss of strength.

On July 7, 2004 the Office issued a schedule award for an eight percent permanent impairment of the right shoulder. On appeal, appellant contends that she has greater impairment.

LEGAL PRECEDENT

Section 8107 of the Federal Employees' Compensation Act¹ authorizes the payment of schedule awards for the loss or loss of use of specified members, organs or functions of the body. Such loss or loss of use is known as permanent impairment. The Office evaluates the degree of

¹ 5 U.S.C. § 8107.

permanent impairment according to the standards set forth in the specified edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.²

ANALYSIS

Dr. Gordon reported minus 10 degrees of full external rotation of the right shoulder, or external rotation to 80 degrees. According to Figure 16-46, page 479, of the A.M.A., *Guides*, this represents a zero percent impairment of the upper extremity. Minus 30 degrees of full internal rotation, or internal rotation to 60 degrees, represents a 2 percent impairment of the upper extremity under Figure 16-46.

Dr. Gordon reported flexion to approximately 120 to 130 degrees. According to Figure 16-40, page 476, 120 degrees of shoulder flexion (the most restricted motion reported) represents a 4 percent impairment of the upper extremity. He also reported extension to 20 to 30 degrees, which, again using the lowest figure, represents a 2 percent impairment of the upper extremity.

Dr. Gordon reported abduction to approximately 120 degrees. According to Figure 16-43, page 477, this represents a 3 percent impairment of the upper extremity. He reported no loss of adduction.

The upper extremity impairment resulting from abnormal shoulder motion is calculated from the pie charts by adding directly the upper extremity impairment values contributed by each motion unit.³ Dr. Gordon's findings therefore support that appellant has an 11 percent impairment of the right upper extremity due to loss of range of motion: 2 percent for loss of internal rotation, 4 percent for loss of flexion, 2 percent for loss of extension and 3 percent for loss of abduction.

The Office medical adviser correctly noted that decreased strength cannot be rated in the presence of decreased motion.⁴ Appellant, therefore, may not receive an additional five percent for loss of strength, as Dr. Gordon reported. As for the additional five percent he assigned "for recurring soreness in the right shoulder and some tightness in the neck muscles and a slight loss of range of motion when symptomatic," Dr. Gordon made no attempt to explain this estimate using the A.M.A., *Guides*. He diagnosed no peripheral nerve disorder or pain syndrome. And no schedule award is payable for impairment to the neck or back.⁵

² 20 C.F.R. § 10.404 (2004). Effective February 1, 2001 the Office began using the A.M.A., *Guides* (5th ed. 2000). FECA Bulletin No. 01-05 (issued January 29, 2001).

³ A.M.A., *Guides* at 474 (5th ed. 2000).

⁴ *Id.* at 508 and 526, Table 17-2.

⁵ No schedule award is payable for a member, function or organ of the body not specified in the Act or in the regulations. *William Edwin Muir*, 27 ECAB 579 (1976). Because neither the Act nor the regulations provide for the payment of a schedule award for the permanent loss of use of the back, no claimant is entitled to such an award. *Rozella L. Skinner*, 37 ECAB 398 (1986). Indeed, the Act itself specifically excludes the back from the definition of "organ." 5 U.S.C. § 8101(19).

CONCLUSION

The medical evidence establishes that appellant has more than an eight percent permanent impairment of her right arm. The Board will modify the Office's July 7, 2004 decision to reflect that she is entitled to compensation for an 11 percent permanent impairment of her right arm and will remand the case to the Office for payment of additional compensation.

ORDER

IT IS HEREBY ORDERED THAT the July 7, 2004 decision of the Office of Workers' Compensation Programs is affirmed as modified. The case is remanded for further action consistent with this opinion.

Issued: January 14, 2005
Washington, DC

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Member

David S. Gerson
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