

was lifting filing cabinets in the performance of duty. He received appropriate wage-loss compensation.¹

On August 5, 2003 appellant filed a claim for a schedule award. His treating physician, Dr. Daniel R. Cavazos, a Board-certified orthopedic surgeon, did not provide an impairment rating. Therefore, the Office referred him for a second opinion examination. Dr. Edward W. Gold, a Board-certified orthopedic surgeon and Office referral physician, examined appellant on July 13, 2004 and found a 15 percent impairment of the left upper extremity due to loss of range of motion and pain.²

On September 27, 2004 the Office medical adviser reviewed the case record, including Dr. Gold's July 13, 2004 report. He found that appellant had a 13 percent impairment due to loss of range of motion in the left shoulder. The Office medical adviser also found an additional 3 percent impairment due to pain, for a total left upper extremity impairment of 16 percent. Appellant reached maximum medical improvement on July 13, 2004.

By decision dated March 2, 2005, the Office granted a schedule award for a 16 percent impairment of the left upper extremity. The award covered a period of 49.92 weeks from July 13, 2004 to June 27, 2005.

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 of use, of specified members, functions and organs of the body.³ 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* as the appropriate standard for evaluating schedule losses.⁴ Effective February 1, 2001, schedule awards are determined in accordance with the A.M.A., *Guides* (5th ed. 2001).⁵

¹ On May 15, 2002 appellant filed a claim for recurrence of disability beginning November 2, 2001. The Office denied the recurrence claim by decision dated September 26, 2002. The Branch of Hearings and Review affirmed the denial in a decision dated February 18, 2004.

² Dr. Gold attributed three percent of appellant's left upper extremity impairment to pain. He also noted that he had chronic low back pain; however, appellant did not have any lower extremity abnormalities on physical examination.

³ The Act provides that for a total, or 100 percent loss of use of an arm, an employee shall receive 312 weeks' compensation. 5 U.S.C. § 8107(c)(1).

⁴ 20 C.F.R. § 10.404 (1999).

⁵ Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 (June 2003); FECA Bulletin No. 01-05 (issued January 29, 2001).

ANALYSIS

Based on Dr. Gold's July 13, 2004 measurement of 90 degrees left shoulder flexion, the Office medical adviser found that appellant had six percent impairment in accordance with Figure 16-40, A.M.A., *Guides* at 476. He found an additional one percent impairment under Figure 16-40 for 30 degrees of left shoulder extension. Dr. Gold also reported 90 degrees of internal rotation and 50 degrees external rotation, which the Office medical adviser correctly noted that, pursuant to Figure 16-46, the A.M.A., *Guides* at 479, represented 0 and 1 percent impairment, respectively. With respect to appellant's left shoulder adduction and abduction, Dr. Gold reported measurements of 90 and 30 degrees, respectively. The Office medical adviser correctly found that these measurements represented four percent and one percent impairment under Figure 16-43, A.M.A., *Guides* 477. He then added the impairments for external rotation (1 percent), flexion (6 percent), extension (1 percent), adduction (1 percent) and abduction (4 percent) and found that appellant had 13 percent impairment of the left upper extremity due to loss of range of motion. Dr. Gold and the Office medical adviser both found him entitled to an additional 3 percent impairment for pain, which was not otherwise accounted for in the 13 percent loss of range of motion impairment rating.⁶ According to the Office medical adviser, appellant's total left upper extremity impairment was 16 percent.

As the Office medical adviser's September 27, 2004 impairment rating conforms to the A.M.A., *Guides* (5th ed. 2001), his finding constitutes the weight of the medical evidence.⁷ Appellant has not submitted any credible medical evidence indicating that he has greater than a 16 percent impairment of the left upper extremity.

CONCLUSION

The Board finds that appellant failed to establish that he has greater than a 16 percent impairment of the left upper extremity.

⁶ FECA Bulletin No. 01-05 (issued January 29, 2001).

⁷ See *Bobby L. Jackson*, 40 ECAB 593, 601 (1989).

ORDER

IT IS HEREBY ORDERED THAT the March 2, 2005 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 19, 2006
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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