

**United States Department of Labor  
Employees' Compensation Appeals Board**

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NANCY L. MASON, Appellant

and

U.S. POSTAL SERVICE, GENERAL MAIL  
FACILITY, Des Moines, IA, Employer

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**Docket No. 05-1942  
Issued: January 5, 2006**

*Appearances:*  
Nancy L. Mason, *pro se*  
Office of Solicitor, for the Director

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chief Judge  
DAVID S. GERSON, Judge  
MICHAEL E. GROOM, Alternate Judge

**JURISDICTION**

On September 19, 2005 appellant filed a timely appeal of the June 24, 2005 merit decision of the Office of Workers' Compensation Programs, which granted a schedule award. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d), the Board has jurisdiction over the merits of the claim.

**ISSUE**

The issue is whether appellant has greater than a six percent impairment of the left and right upper extremity, for which she received a schedule award.

**FACTUAL HISTORY**

Appellant, a 62-year-old clerk, has an accepted occupational disease claim for bilateral wrist tendinitis, which arose on or about September 10, 2000.<sup>1</sup> On March 19, 2003 appellant

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<sup>1</sup> In 2001 appellant underwent surgery to repair a torn right rotator cuff. This condition, however, was not accepted by the Office as employment related.

filed a claim for a schedule award. Her treating physician was unable to provide an impairment rating, therefore, the Office referred her for a second opinion evaluation.

In a report dated February 18, 2005, Dr. Charles F. Denhart, a Board-certified physiatrist and Office referral physician, diagnosed bilateral wrist pain and bilateral wrist tendinitis. He reported that appellant did not have a loss of motor function or loss of range of motion. She did, however, experience pain and discomfort in her wrists. Dr. Denhart noted that the pain was on both the dorsal and palmar surfaces of the wrists, radiating up into the forearm and out into the entire hand. According to Dr. Denhart, appellant's pain was roughly coincident with the median nerve distribution. Based on the results of his examination, Dr. Denhart determined that appellant had six percent impairment of the left and right upper extremities due to pain. He also indicated that she reached maximum medical improvement on September 10, 2001.

On February 25, 2005 the Office medical adviser reviewed Dr. Denhart's report and concurred with his findings.

By decision dated June 24, 2005, the Office granted a schedule award for six percent impairment of both the left and right upper extremity. The award covered a period of 37.44 weeks from September 10, 2001 to May 30, 2002.

### **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.<sup>2</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* as the appropriate standard for evaluating schedule losses.<sup>3</sup> Effective February 1, 2001, schedule awards are determined in accordance with the A.M.A., *Guides* (5<sup>th</sup> ed. 2001).<sup>4</sup>

### **ANALYSIS**

Dr. Denhart's February 18, 2005 physical examination revealed no motor weakness, no muscle atrophy and no loss of range of motion.<sup>5</sup> He did, however, find bilateral impairment due to pain (sensory deficit) involving the median nerve. According to Dr. Denhart, appellant

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<sup>2</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>3</sup> 20 C.F.R. § 10.404 (1999).

<sup>4</sup> Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 (June 2003); FECA Bulletin No. 01-05 (issued January 29, 2001).

<sup>5</sup> The measurements for wrist dorsiflexion, palmar flexion, radial deviation and ulnar deviation were all within the normal range and did not represent impairment under Figures 16-28 and 16-31, A.M.A., *Guides* 467, 469.

exhibited pain on both the dorsal and palmar surfaces of her wrists, which radiated up into the forearm and out into the entire hand. In his opinion, the pain pattern was roughly coincident with the median nerve distribution. Dr. Denhart classified appellant's bilateral pain as Grade 4 and assessed a 15 percent deficit under Table 16-10, A.M.A., *Guides* 482.<sup>6</sup> The maximum upper extremity impairment for sensory deficit or pain based on median nerve involvement is 39 percent according to Table 16-15, A.M.A., *Guides* 492. Under Tables 16-10 and 16-15, a Grade 4 classification (15 percent) and a median nerve impairment due to pain (39 percent) results in 6 percent impairment (15 percent x 39 percent = 5.85 percent) bilaterally. The Office medical adviser concurred with Dr. Denhart's rating of six percent impairment for each upper extremity. The impairment rating conforms to the A.M.A., *Guides* (5<sup>th</sup> ed. 2001), such that Dr. Denhart's finding constitutes the weight of the medical evidence.<sup>7</sup> Appellant has not submitted any medical evidence to establish that she has greater than six percent impairment of the left and right upper extremities.

### **CONCLUSION**

The Board finds that appellant failed to establish that she has greater than six percent impairment of the left and right upper extremities.

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<sup>6</sup> A Grade 4 classification is characterized by “[d]istorted superficial tactile sensibility (diminished light touch), with or without minimal abnormal sensation or pain, that is forgotten during activity.” This classification represents a 1 to 25 percent deficit. Table 16-10, A.M.A., *Guides* 482.

<sup>7</sup> See *Bobby L. Jackson*, 40 ECAB 593, 601 (1989).

**ORDER**

**IT IS HEREBY ORDERED THAT** the June 24, 2005 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 5, 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