

FACTUAL HISTORY

This is the second appeal before the Board. The facts of this case, as presented in the Board's June 22, 2006 decision, are hereby incorporated by reference.¹ The relevant facts are set forth.

On August 5, 2004 appellant, then a 63-year-old distribution clerk, filed a traumatic injury claim alleging that on July 29, 2004 she tripped and sustained a broken right wrist. On September 27, 2004 the Office accepted appellant's claim for fracture of the right wrist. Appellant retired on July 31, 2006.

On August 14, 2006 appellant filed a claim for a schedule award. She submitted a medical report and impairment rating by Dr. Michael J. Platto, a Board-certified physiatrist, who concluded that appellant had a 12 percent impairment of the right upper extremity. Dr. Platto noted that, pursuant to the American Medical Association, *Guides* to the Evaluation of Permanent Impairment appellant's 43 degrees of flexion in her wrist would amount to a 3 percent impairment of the right upper extremity. Using Figure 16-28 of the A.M.A., *Guides*, he determined that she had 40 degrees of extension which amounted to 4 percent impairment of the right upper extremity.² Dr. Platto found that appellant had 10 degrees of radial deviation for a 2 percent impairment of the upper extremity and 17 degrees of ulnar deviation for a "-3 [percent]" impairment of the right upper extremity.³ He then added the loss of range of motion impairments to find a total 12 percent impairment of the right upper extremity based on impairment to the right wrist.⁴

The Office referred appellant's file to the Office medical adviser to determine if there was an impairment due to the accepted condition. He reviewed the physical examination findings of Dr. Platto. In a report dated August 22, 2006, the Office medical adviser determined that appellant had a 20 percent impairment to her right wrist. He agreed with Dr. Platto that appellant had a three percent impairment for loss of flexion, a four percent impairment for loss of extension and a two percent impairment for loss of radial deviation. With regard to her ulnar deviation of 17 degrees, he found that this was an 11 percent impairment of the right upper extremity, not the "-3" percent documented by Dr. Platto.⁵ The medical adviser added the loss of range of motion impairments (2 percent impairment for flexion, 3 percent impairment for extension, 2 percent impairment for radial deviation plus 13 percent for ulnar deviation) to total a

¹ Docket No. 06-804 (issued June 22, 2006).

² A.M.A., *Guides* 467, Figure 16-28.

³ A.M.A., *Guides* 469, Figure 16-31.

⁴ Dr. Platto determined that, if you add the figures for impairments in appellant's right shoulder and right hand to the impairment findings for appellant's right wrist, she had a 37 percent impairment of the right upper extremity or a 22 percent impairment of the whole person.

⁵ A.M.A., *Guides* 469, Figure 16-31.

20 percent impairment of the right upper extremity based on impairment to her right wrist.⁶ He further opined:

“For the accepted condition of right wrist, fracture, closed lower end of radius, right wrist open fracture carpal bone status post percutaneous pinning of the right radial wrist fracture, the final impairment in the right upper extremity is 20 [percent]. [Appellant] has scleroderma which may complicate the right wrist range of motion (although this will mostly affect the fingers of the right hand), however, there is no way to determine which amount of impairment is due to scleroderma in the wrist, if any and which is due to the residuals of the accepted conditions.”

On August 31, 2006 the Office issued a schedule award for a 20 percent impairment of the right upper extremity.

LEGAL PRECEDENT

The schedule award provisions of the Federal Employees’ Compensation Act⁷ and its implementing regulation at 20 C.F.R. § 10.404, provide for compensation to employees sustaining impairment from loss or loss of use of specified members of the body. The Act, however, does not specify the manner in which the percentage loss of a member shall be determined. The method used in making such determination is a matter which rests in the sound discretion of the Office. For consistent results and to ensure equal justice, the Board has authorized the use of a single set of tables so that there may be uniform standards applicable to all claimants. The A.M.A., *Guides* has been adopted by the Office as a standard for evaluation of schedule losses and the Board has concurred in such adoption.⁸ As of February 1, 2001, schedule awards are calculated according to the fifth edition of the A.M.A., *Guides*, published in 2000.⁹

ANALYSIS

Both Dr. Platto and the Office medical adviser properly applied the A.M.A., *Guides* with regard to impairment of appellant’s right upper extremity based on findings in her right wrist based on extension, flexion and right wrist radial deviation. Pursuant to the A.M.A., *Guides*, 43 degrees of flexion of the right wrist equaled a 3 percent impairment of the right upper extremity and 40 degrees of extension equaled a 4 percent impairment of the right upper extremity;¹⁰ 10

⁶ The Office medical adviser found that appellant had a total upper extremity impairment of 69 percent based on 20 percent impairment of the right wrist, 13 percent impairment of the right shoulder and 55 percent impairment of the right hand.

⁷ 5 U.S.C. §§ 8101-8193.

⁸ *Bernard A. Babcock, Jr.*, 52 ECAB 143 (2000).

⁹ See Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700, Exhibit 4 (June 2003) schedule awards calculated as of February 21, 2001 should be evaluated according to the fifth edition of the A.M.A., *Guides*. Any recalculations of previous awards which result from hearings, reconsideration or appeals should, however, be based on the fifth edition of the A.M.A., *Guides* effective February 1, 2001.

¹⁰ A.M.A., *Guides* 467, Figure 28.

degrees of radial deviation in the right wrist equaled a 2 percent impairment of the right upper extremity.¹¹ However, neither physician's conclusions with regard to ulnar deviation is correct based on the A.M.A., *Guides*. Dr. Platto found that, as appellant had 17 degrees of ulnar deviation, she was entitled to a "-3" percent impairment of the right upper extremity. The A.M.A., *Guides* 469, Figure 31, do not appear to allow for negative findings. In adding his figures, however, it appears that Dr. Platto read his finding as a (positive) 3 percent impairment. However, as the report is written, his finding is incorrect based on his statement that appellant had a minus three percent impairment based on ulnar deviation. The Office medical adviser found Dr. Platto's findings incorrect and he found a 17 percent impairment due to ulnar deviation. However, a review of Figure 16-31 of the A.M.A., *Guides* does not reveal how the Office medical adviser arrived at this conclusion. His conclusion is further complicated as he appears to confuse Dr. Platto's finding with regard to ulnar deviation with right wrist radial deviation. Accordingly, the case will be remanded in order for the Office medical adviser to reevaluate appellant's impairment to her right upper extremity.

CONCLUSION

This case is not in posture for decision and is remanded for further development of the medical evidence. Following this and any necessary further development, the Office should issue a *de novo* decision regarding the percentage of impairment of appellant's right upper extremity.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated August 31, 2006 is vacated and the case remanded for further consideration consistent with this opinion.

Issued: March 22, 2007
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board

¹¹ A.M.A., *Guides* 469, Figure 16-31.