

compartment changes and right knee pain. He stated that appellant's "permanent partial disability secondary to his right knee MCL [medial collateral ligament] strain, patellofemoral arthrosis, would be rated at approximately 10 percent." An Office medical adviser reviewed the medical evidence on October 24, 2004 and found that appellant had two percent right leg permanent impairment based on right knee pain.

By decision dated December 7, 2004, the Office issued a schedule award for a two percent permanent impairment to the right leg. The period of the award was 5.76 weeks commencing April 22, 2003.

On January 24, 2008 appellant submitted a claim for compensation (Form CA-7) and checked "schedule award." He submitted a December 7, 2007 report from Dr. Luber, who noted intra-articular effusion, flexion range of motion to approximately 125 to 130 degrees, and "2+ gapping to his right knee MCL." As to permanent impairment, Dr. Luber concluded that, under the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, the "permanent and partial ratings for a right knee MCL injury and associated patellofemoral arthrosis, permanent impairment rating would be 10 percent."

The Office referred the case to an Office medical adviser for review. In a report dated May 6, 2008, the Office medical adviser noted that Dr. Luber again had assigned 10 percent impairment rating, as he had in the April 22, 2003 report. The medical adviser stated that the A.M.A., *Guides* provided no formal impairment rating for the conditions described by Dr. Luber. As to the physical examination, the medical adviser indicated that the only change from 2003 was the reported knee effusion and a slight decrease in right knee flexion. The medical adviser opined that there was no evidence to show an increase in the two percent permanent impairment previously awarded.

By decision dated October 23, 2008, the Office determined that appellant was not entitled to an additional schedule award.

LEGAL PRECEDENT

Section 8107 of the Federal Employees' Compensation Act provides that, if there is permanent disability involving the loss or loss of use of a member or function of the body, the claimant is entitled to a schedule award for the permanent impairment of the scheduled member or function.¹ Neither the Act nor the regulations specify the manner in which the percentage of impairment for a schedule award shall be determined. For consistent results and to ensure equal

¹ 5 U.S.C. § 8107. This section enumerates specific members or functions of the body for which a schedule award is payable and the maximum number of weeks of compensation to be paid; additional members of the body are found at 20 C.F.R. § 10.404(a).

justice for all claimants the Office has adopted the A.M.A., *Guides* as the uniform standard applicable to all claimants.²

ANALYSIS

On appeal, appellant contends that his impairment rating should be 10 percent not 2 percent. While Dr. Luber found that under the A.M.A. *Guides* appellant had 10 percent right leg impairment, he did not provide any explanation or medical rationale supporting the rating. The medical evidence necessary to support a schedule award includes a physician's report that provides a detailed description of the impairment.³ It is not clear how Dr. Luber applied the A.M.A., *Guides* in this case. As to range of motion, for example, Table 17-10 provides a 10 percent leg impairment for loss of knee flexion, but only if the measured flexion is less than 110 degrees.⁴ The reported flexion of 125 to 130 degrees does not result in impairment under Table 17-10. Dr. Luber did not identify any other specific table under the A.M.A., *Guides*, or provide a sufficiently detailed description of appellant's impairment that would support a finding of greater than two percent right leg impairment. The Board accordingly finds that Dr. Luber's opinion is of diminished probative value to the issue presented.

The Office medical adviser also opined in his May 6, 2008 report that Dr. Luber did not establish an additional permanent impairment to the right leg. He stated that the A.M.A., *Guides* do not provide a specific impairment rating for the described conditions. There is no rationalized medical opinion showing a permanent impairment greater than the two percent appellant received on December 7, 2004. Therefore the Office properly denied an additional schedule award in this case.

CONCLUSION

The Board finds the evidence does not establish more than two percent right leg permanent impairment.

² A. *George Lampo*, 45 ECAB 441 (1994).

³ See *James E. Jenkins*, 39 ECAB 860 (1988); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6(c) (August 2002).

⁴ A.M.A., *Guides* 537, Table 17-10.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated October 23, 2008 is affirmed.

Issued: September 11, 2009
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