

On February 8, 2006 appellant, then a 51-year-old letter carrier, filed a claim alleging that his bilateral shoulder condition was a result of his federal employment: “I realize my condition is job related by me leaning on my left shoulder to retrieve the mail and constantly placing mail into curb line boxes with my right hand.” The Office accepted his claim for bilateral shoulder impingement and bilateral rotator cuff sprain.

On October 23, 2007 appellant underwent a left shoulder arthroscopy with debridement, release of scar tissue and decompression of the subacromial space. On January 8, 2009 he underwent arthroscopic resection of a labral tear in his right glenohumeral joint, decompression of the subacromial space and resection of a spur in the acromioclavicular joint.

Appellant filed a claim for a schedule award. The Office notified the orthopedic surgeon, Dr. Barney C. Horvath, what specific measurements and other findings were necessary to evaluate appellant's impairment.

Dr. Horvath noted that appellant still had difficulty lifting above shoulder level on the right. A physical examination showed appellant able to lift to 120 degrees of abduction and 30 degrees of external rotation. Dr. Horvath stated that she was entitled to a rating of five percent to each shoulder "for limitation of severe range of motion on both sides." He injected the right shoulder with cortisone to alleviate some of the pain.

An Office medical adviser reviewed Dr. Horvath's findings and determined that 120 degrees of abduction represented a three percent impairment of the upper limb. He also determined that 30 degrees of external rotation represented a two percent impairment of the upper limb, for a combined impairment of five percent for each upper limb.

On May 25, 2010 the Office issued a schedule award for a five percent impairment of each upper limb. Appellant appeals without argument.

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

ANALYSIS

Although diagnosis-based impairment is the method of choice for calculating upper limb impairment, one may use range of motion as an alternative to determine actual impairment values when a grid permits its use as an option.³ Table 15-5, page 402 of the A.M.A., *Guides*, permits such use for almost all shoulder diagnoses, including sprain/strain, impingement syndrome and rotator cuff injury.

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.404. For impairment ratings calculated on and after May 1, 2009, the Office should advise any physician evaluating permanent impairment to use the sixth edition. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards & Permanent Disability Claims*, Chapter 2.808.6.a (January 2010).

³ A.M.A., *Guides* 461, 387, 390 (6th ed. 2009).

According to Table 15-34, page 475 of the A.M.A., *Guides*, 120 degrees of shoulder abduction represents a three percent impairment of the upper extremity. 30 degrees of external rotation represents two percent impairment. These values are added⁴ to give a total shoulder impairment of five percent on each side, which the Office awarded.⁵

The Act provides a maximum 312 weeks of compensation for the total loss of an upper limb, as with amputation at the shoulder.⁶ Partial losses are compensated proportionately.⁷ A five percent impairment of an upper limb is five percent of 312 weeks of compensation or 15.6 weeks of compensation. A five percent impairment of both upper limbs is therefore 31.2 weeks of compensation, which the Office awarded. The Board will therefore affirm the Office's May 25, 2010 decision.

CONCLUSION

The Board finds that the medical evidence establishes no more than a five percent impairment of each upper limb.

⁴ *Id.* at 473.

⁵ An adjustment for functional history may be made under certain conditions for range of motion impairments, but the extent to which functional symptoms interfere with appellant's activities does not appear sufficient, from Dr. Horvath's descriptions, to warrant the maximum one percent additional impairment this adjustment would allow. *Id.* at 473-76.

⁶ 5 U.S.C. § 8107(c)(1).

⁷ *Id.* at § 8107(c)(19).

ORDER

IT IS HEREBY ORDERED THAT the May 25, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 24, 2011
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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