United States Department of Labor
Employees' Compensation Appeals Board

S.C., Appellant	)	
and	)	**Docket No. 12-1004**
	)	**Issued: November 2, 2012**
U.S. POSTAL SERVICE, CONNECTICUT P & DC, Wallingford, CT, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
RICHARD J. DASCHBACH, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On April 5, 2012 appellant filed a timely appeal from a February 7, 2012 schedule award decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the schedule award.

ISSUE

The issue is whether appellant met her burden of proof to establish more than 10 percent impairment of the left leg for which she received schedule awards.

On appeal, she asserts that the opinion of the attending physician establishes greater impairment.

[1] 5 U.S.C. §§ 8101-8193.

FACTUAL HISTORY

On April 22, 2005 appellant, then a 35-year-old mail processor, injured her left knee when picking up a mail tray off the floor. She stopped work that day. OWCP accepted that she sustained a medial meniscus tear of the left knee. Appellant returned to modified duty on July 2, 2005 and to regular duty on August 9, 2005. OWCP accepted several recurrences of disability. Appellant stopped work on August 13, 2007 when Dr. Philip Luchini, an attending Board-certified orthopedic surgeon, performed arthroscopic shaving of the left patella. She was placed on the periodic compensation rolls and returned to modified duty on November 12, 2007. On November 5, 2008 appellant was granted a schedule award for a three percent impairment of the left leg.

On February 5, 2010 OWCP accepted that appellant sustained a recurrence of disability on November 17, 2009 when her job was withdrawn under the National Reassessment Process. Appellant underwent a second arthroscopic surgery on November 8, 2010. Her claim was accepted for chondromalacia patella, left, and traumatic patellofemoral arthritis of the left knee. On April 25, 2011 Dr. Luchini performed patellofemoral joint replacement surgery. Appellant had a left knee manipulation procedure on June 6, 2011. She returned to full-time modified duty on December 5, 2011.[2]

Appellant filed a schedule award claim on December 5, 2011. In a November 22, 2011 report, Dr. Luchini stated that appellant's symptoms had plateaued and she had reached maximum medical improvement. Dr. Luchini reported that she had anterior knee pain and difficulty kneeling and stair-climbing and that examination showed complete extension to the knee in flexion to 120 degrees with no swelling or ligament instability. He advised that, in accordance with the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*),[3] under Table 16-3, Knee Regional Grid, appellant had a class 2 impairment of 20 percent. In a December 7, 2011 report, Dr. Luchini noted appellant's complaint of anterior knee pain and swelling after extended periods of walking, which he indicated was due to overuse. He found no evidence of loosening or infection in the left knee.

In a December 16, 2011 report, Dr. Christopher R. Brigham, Board-certified in family and occupational medicine and an OWCP medical adviser, reviewed the medical records. He advised that maximum medical improvement was reached on November 22, 2011. Dr. Brigham agreed that Table 16-3 should be used to rate appellant's left knee impairment and noted that Dr. Luchini did not provide a specific diagnosis or rationale as to how he rated impairment or discuss which, if any, grade modifiers were used. Dr. Brigham advised that, because a diagnosis of patellofemoral joint replacement was not provided in the A.M.A., *Guides*, an analogous rating

[2] By decision dated December 14, 2010, OWCP reduced appellant's compensation to zero, effective December 19, 2010, on the grounds that she failed, without good cause, to cooperate with vocational rehabilitation efforts. On April 26, 2011 an OWCP hearing representative affirmed the December 14, 2010 decision. Appellant filed an appeal with the Board and in a March 13, 2012 decision, the Board reversed the April 26, 2011 decision. Docket No. 11-1665.

[3] A.M.A., *Guides* (6th ed. 2008).

would be made. Under Table 16-3, for a diagnosis of knee arthritis when there was no cartilage interval, the default rating was 50 percent and, for patellofemoral arthritis, the default rating was 20 percent. The medical adviser divided the 20 percent default rating for patellofemoral arthritis by the 50 percent default rating for knee arthritis, which yielded 40 percent. He stated that it would then be reasonable to conclude that a default rating for patellofemoral joint replacement would be 40 percent of that assigned for total knee replacement. Dr. Brigham stated that based on a good result, dividing the default rating of 25 percent by 40 percent (the percentage determined reasonable for a partial knee replacement of the patellofemoral joint only) resulted in a 10 percent impairment of the left lower extremity, which he rated as class 1. He found a modifier of 1 for functional history because appellant had difficulty kneeling and stair climbing; a modifier of 0 for physical examination because she had no abnormal findings; and a modifier of 2 for clinical studies because she had a prosthetic patellofemoral joint. After applying the Net Adjustment Formula, Dr. Brigham concluded that appellant had a 10 percent left lower extremity impairment due to the patellofemoral joint replacement.

By decision dated February 7, 2012, OWCP found that appellant had a 10 percent impairment of the left lower extremity. It granted a schedule award for an additional seven percent impairment of the left lower extremity, less than the three percent previously awarded; a total of 20.16 weeks, to run from December 5, 2011 to April 24, 2012.

LEGAL PRECEDENT

The schedule award provision of FECA[4] and its implementing federal regulations,[5] set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss, or loss of use, of scheduled members or functions of the body. However, FECA does not specify the manner in which the percentage of loss shall be determined. For consistent results and to ensure equal justice under the law for all claimants, OWCP has adopted the A.M.A., *Guides* as the uniform standard applicable to all claimants.[6] For decisions after February 1, 2001, the fifth edition of the A.M.A., *Guides* was used to calculate schedule awards.[7] For decisions issued after May 1, 2009, the sixth edition is used.[8]

The sixth edition of the A.M.A., *Guides* provides a diagnosis-based method of evaluation utilizing the World Health Organization's International Classification of Functioning, Disability and Health (ICF).[9] Under the sixth edition, for lower extremity impairments the evaluator identifies the impairment class for the diagnosed condition (CDX), which is then adjusted by grade modifiers based on Functional History (GMFH), Physical Examination (GMPE) and

[4] 5 U.S.C. § 8107.

[5] 20 C.F.R. § 10.404.

[6] *Id*. at § 10.404(a).

[7] Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700, Exhibit 4 (June 2003).

[8] FECA Bulletin No. 09-03 (issued March 15, 2009).

[9] A.M.A., *Guides*, *supra* note 3 at 3, section 1.3, "The International Classification of Functioning, Disability and Health (ICF): A Contemporary Model of Disablement."

Clinical Studies (GMCS).[10] The net adjustment formula is (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX).[11] Under Chapter 2.3, evaluators are directed to provide reasons for their impairment rating choices, including choices of diagnoses from regional grids and calculations of modifier scores.[12]

OWCP's procedures provide that, after obtaining all necessary medical evidence, the file should be routed to an OWCP medical adviser for an opinion concerning the nature and percentage of impairment in accordance with the A.M.A., *Guides*, with the medical adviser providing rationale for the percentage of impairment specified.[13]

ANALYSIS

The Board finds that appellant did not establish that she has greater than 10 percent left leg impairment. The sixth edition classifies the lower extremity impairment by diagnosis, which is then adjusted by grade modifiers.[14] Section 16.2a includes instructions for performing an impairment analysis using the regional grids. This includes identifying a diagnosis and applying the grade modifiers.[15]

In a November 22, 2011 report, Dr. Luchini concluded that, under Table 16-3, appellant had a 20 percent left lower extremity impairment. As noted by the medical adviser, Dr. Luchini did not list a specific diagnosis or explain whether he had applied the grade modifiers. He did not provide adequate explanation for his impairment rating. Dr. Luchini's December 7, 2011 report did not include an impairment analysis. His opinion is therefore of diminished probative value with regard to the degree of appellant's left lower extremity impairment.

Section 16.2c of the A.M.A., *Guides* provides that, if a specific diagnosis is not listed in the diagnosis-based impairment grid of Table 16-3, the examiner should identify a similar condition to be used as a guide for calculating impairment and should describe rationale for the conclusion.[16] In a December 16, 2011 report, Dr. Brigham, the medical adviser, explained that Table 16-3 did not include a diagnosis for patellofemoral joint replacement. He compared and extrapolated the ratings found at Table 16-3 for knee arthritis and patellofemoral joint (or partial knee) arthritis, concluding that appellant's partial knee replacement constituted 40 percent of a total knee replacement. The medical adviser then divided the default value for a good result in a total knee replacement (25 percent), by the 40 percent for appellant's partial knee replacement,

[10] *Id*. at 494-531.

[11] *Id*. at 521.

[12] *Id*. at 23-28.

[13] *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6(d) (August 2002).

[14] A.M.A., *Guides*, *supra* note 3 at 497-500.

[15] *Id*. at 499-500.

[16] *Id*. at 500.

which yielded a 10 percent impairment of the left lower extremity. He identified modifiers of 1 for functional history, zero for physical examination and 2 for clinical studies. Dr. Brigham calculated an adjustment of zero, for a 10 percent left lower extremity impairment due to patellofemoral joint replacement.

The record does not contain an additional medical report that rates appellant's left lower extremity in accordance with the sixth edition of the A.M.A., *Guides*.

Appellant may request a schedule award or increased schedule award based on evidence of a new exposure or medical evidence showing progression of an employment-related condition resulting in permanent impairment or increased impairment.

CONCLUSION

The Board finds that appellant has a 10 percent left lower extremity impairment for which she received schedule awards.

ORDER

IT IS HEREBY ORDERED THAT the February 7, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 2, 2012
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

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

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