

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

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**DEBORAH L. TROTTER, Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Nashville, TN, Employer**

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**Docket No. 04-53**

**Issued: February 13, 2004**

*Appearances:*

*Deborah L. Trotter, pro se*

*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

COLLEEN DUFFY KIKO, Member

DAVID S. GERSON, Alternate Member

WILLIE T.C. THOMAS, Alternate Member

**JURISDICTION**

On October 6, 2003 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated December 10, 2002. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

**ISSUE**

The issue is whether appellant has more than a five percent permanent impairment of the left upper extremity and more than a seven percent permanent impairment of the right upper extremity.

**FACTUAL HISTORY**

On October 24, 2000 appellant, then a 46-year-old mail processor, filed an occupational disease claim alleging that she developed bilateral carpal tunnel syndrome and bilateral epicondylitis as a result of performing repetitive duties at work. Appellant became aware of her condition in June 2000 and did not stop work. The Office accepted bilateral carpal tunnel syndrome and bilateral epicondylitis and authorized right and left carpal tunnel releases which

were performed on February 26 and April 30, 2001 respectively. Appellant resigned from the employing establishment in July 2001.

Appellant submitted various medical records from Dr. Gregory G. White, a Board-certified orthopedic surgeon, dated July 7, 2000 to July 24, 2001 who noted treating her for bilateral epicondylitis and bilateral carpal tunnel syndrome as confirmed by an electromyogram performed on January 30, 2001. He opined, in a report dated February 15, 2001, that appellant's repetitive duties at the employing establishment were directly related to her symptoms and condition. Dr. White noted performing right and left carpal tunnel releases and advised that appellant was progressing postsurgery and released her to regular duty on July 24, 2001.

Appellant submitted a report from Dr. David W. Gaw, a Board-certified orthopedic surgeon, dated October 10, 2001, who diagnosed postoperative carpal tunnel syndrome surgery bilaterally, overuse syndrome of the right upper extremity including lateral epicondylitis, ulnar nerve sensory deficit on the right and minimal arthritis at the first metacarpal joint on the right. He noted findings upon physical examination of decreased sensation in the ulnar nerve distribution on the right to light touch and to pinprick, normal sensation in the ulnar nerve distribution on the left, there is decreased sensation to light touch and to pinprick in the median nerve on the left and right side. Dr. Gaw opined that, based on the fifth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*,<sup>1</sup> appellant would have a five percent permanent impairment due to the sensory deficit of the median nerve on the right,<sup>2</sup> and a two percent permanent impairment due to the ulnar nerve deficit,<sup>3</sup> for a total of seven percent permanent impairment of the right upper extremity. With regard to the left upper extremity, Dr. Gaw noted that appellant retained a five percent permanent impairment due to slight sensory deficit of the median nerve.<sup>4</sup>

On May 26, 2002 appellant filed a claim for a schedule award.

Dr. Gaw's report and the case record were referred to the Office's medical adviser who, in a report dated May 30, 2002, determined that appellant sustained a five percent impairment of the left upper extremity. The Office medical adviser noted that page 495 of the A.M.A., *Guides* provides that after optimal recovery time following surgical decompression, an individual continues to complain of pain, paresthesias, and/or difficulties in performing certain activities, and where there is normal sensibility and opposition strength with abnormal sensory and/or motor latencies, a residual carpal tunnel syndrome is present and an impairment rating not to exceed five percent of the upper extremity may be justified.

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<sup>1</sup> A.M.A., *Guides* (5<sup>th</sup> ed. 2001).

<sup>2</sup> Table 16-10, 16-15, page 482, 492, 495 (A.M.A., *Guides*).

<sup>3</sup> Table 16-10, 16-15, page 482, 492, 495 (A.M.A., *Guides*) (Table 16-10 provides for a sensory deficit of Grade 4, and the physician chose a percentage between 1 and 25 to correlate with his findings of decreased sensation in the ulnar nerve distribution on the right to light touch and to pinprick, which he determined to be 10 percent multiplied by the maximum impairment of the upper extremity due to sensory deficits or pain of the ulnar nerve of 2 percent, Table 16-15, to obtain the upper extremity impairment of 2 percent).

<sup>4</sup> Table 16-10, 16-15, page 482, 492, 495 (A.M.A., *Guides*).

In a decision dated June 4, 2002, the Office granted appellant a schedule award for a five percent permanent impairment of the left upper extremity. The period of the schedule award was from October 10, 2001 to January 27, 2002.

In a letter dated July 4, 2002, appellant requested a review of the written record.

By decision dated October 29, 2002, the hearing representative affirmed the decision of the Office dated June 4, 2002.

In a letter dated November 6, 2002, the Office requested that Dr. Gaw provide a permanent impairment rating for the right upper extremity in accordance with the A.M.A., *Guides*.

In a report dated November 11, 2002, Dr. Gaw indicated that appellant reached maximum medical improvement on October 10, 2001. He referred to his findings and opinions in his report of October 10, 2001, and noted that appellant would have a five percent permanent impairment due to the sensory deficit of the median nerve on the right, and a two percent permanent impairment due to the ulnar nerve deficit, for a total of seven percent permanent impairment of the right upper extremity in accordance with the A.M.A., *Guides*.

Dr. Gaw's reports of October 10, 2001 and November 11, 2002 and the case record were referred to the Office's medical adviser. In a report dated November 27, 2002, the Office medical adviser determined that the date of maximum medical improvement was October 10, 2001. The Office medical adviser determined that there was a residual carpal tunnel syndrome present equating to an impairment rating not to exceed five percent of the upper extremity and two percent permanent impairment due to the ulnar nerve deficit, for a total impairment rating of seven percent permanent impairment of the right upper extremity.

In a decision dated December 10, 2002, the Office granted appellant a schedule award for a seven percent permanent impairment of the right upper extremity. The period of the schedule award was from October 10, 2002 to March 11, 2003.

### **LEGAL PRECEDENT**

The schedule award provisions of the Federal Employees' Compensation Act<sup>5</sup> and its implementing regulation<sup>6</sup> 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, the Act 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 to all claimants, good administrative practice necessitates 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 implementing regulation as the appropriate standard for evaluating schedule losses.

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<sup>5</sup> 5 U.S.C. § 8107.

<sup>6</sup> 20 C.F.R. § 10.404 (1999).

### ANALYSIS

On appeal, appellant does not dispute the impairment findings of Dr. Gaw or the medical adviser, however, believes she is entitled to an additional impairment rating for loss of pinch and grip strength as a result of her accepted work-related carpal tunnel syndrome. However, the A.M.A., *Guides* provides that “in compression neuropathies, additional impairment values are not given for decreased grip strength.”<sup>7</sup> Additionally, the Board has found that the fifth edition of the A.M.A., *Guides* provides that impairment for carpal tunnel syndrome be rated on motor and sensory impairments only. In this case, both Drs. Gaw and the medical adviser properly rated appellant’s impairment based on motor and sensory impairments.

The Office medical adviser properly applied the A.M.A., *Guides* to the information provided in Dr. Gaw’s October 10, 2001 and November 11, 2002 reports and determined that appellant had a five percent permanent impairment of the left upper extremity and a seven percent permanent impairment of the right upper extremity. This evaluation conforms to the A.M.A., *Guides* and establishes that appellant has a five percent permanent impairment of the left upper extremity and a seven percent permanent impairment of the right upper extremity.

### CONCLUSION

The Board therefore finds that the weight of the evidence rests with the determination of the Office medical adviser. Appellant, is therefore entitled to a schedule award for seven percent permanent impairment of the right upper extremity and a five percent permanent impairment of the left upper extremity

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<sup>7</sup> See page 494, the fifth edition of the A.M.A., *Guides*; see also Robert V. Disalvatore, 54 ECAB \_\_\_\_ (Docket No. 02-2256, issued January 17, 2003) (where the Board found that the fifth edition of the A.M.A., *Guides* provides that impairment for carpal tunnel syndrome be rated on motor and sensory impairments only).

**ORDER**

**IT IS HEREBY ORDERED THAT** the December 10 and October 29, 2002 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: February 13, 2004  
Washington, DC

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member