

U. S. DEPARTMENT OF LABOR
Employees' Compensation Appeals Board

In the Matter of ALLAN GOGGIN and DEPARTMENT OF THE AIR FORCE,
GRIFFISS AIR FORCE BASE, N.Y.

*Docket No. 96-2507; Submitted on the Record;
Issued July 24, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
BRADLEY T. KNOTT

The issue is whether appellant has more than a 10 percent permanent impairment to the left index finger.

In the present case, the Office of Workers' Compensation Programs accepted that appellant sustained a fractured left index finger in the performance of duty on April 9, 1993. By decision dated July 16, 1996, the Office awarded appellant 4.60 weeks of compensation commencing November 1, 1995, for a 10 percent permanent impairment to the left index finger.

The Board has reviewed the record and finds that appellant has not established more than a 10 percent permanent impairment to the left index finger.

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 justice for all claimants the Office has adopted the American Medical Association, *Guides to the Evaluation of Permanent Impairment* as the uniform standard applicable to all claimants.²

In a report dated November 1, 1995, Dr. Michael DeJesus, Jr., a family practitioner, opined that appellant had a "longitudinal sensory loss impairment of the left index finger involving 50 percent of the affected digit with a total loss of 10 (ulnar nerve)." An Office

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. § 10.304(b).

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

medical adviser opined in a July 3, 1996 memorandum that under the A.M.A., *Guides*, appellant had a 10 percent impairment of the left index finger. This is in accord with the provisions of Table 9, which establishes a 10 percent impairment to the finger for total sensory loss of the ulnar digital nerve affecting 50 percent of the digit length.³ The Board finds that the Office properly applied the A.M.A., *Guides* to the findings of Dr. DeJesus with respect to sensory loss.

It is noted that Dr. DeJesus had noted, in an April 28, 1995 form report, weakness of the left index finger without evidence of atrophy. Dr. DeJesus did not further describe the nature and extent of any weakness or otherwise provide evidence to support any additional impairment under the A.M.A., *Guides* for motor deficits. The Board therefore finds that appellant has not established that he is entitled to more than a 10 percent permanent impairment of the left index finger.

The Board notes that the number of weeks of compensation for a schedule award is determined by the compensation schedule at 5 U.S.C. § 8107(c). For complete loss of use of the first finger, the maximum number of weeks of compensation is 46 weeks. Since appellant's impairment was 10 percent, he is entitled to 10 percent of 46 weeks or 4.6 weeks of compensation.

The decision of the Office of Workers' Compensation Programs dated July 16, 1996 is affirmed.

Dated, Washington, D.C.
July 24, 1998

Michael J. Walsh
Chairman

George E. Rivers
Member

Bradley T. Knott
Alternate Member

³ A.M.A., *Guides* (4th ed. 1993), 31, Table 9.