

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PAUL HERNANDEZ, JR. and DEPARTMENT OF THE NAVY,
COMMANDER PEARL HARBOR NAVAL SHIPYARD, Pearl Harbor, Hawaii

*Docket No. 97-160; Submitted on the Record;
Issued October 16, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

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

In the present case, the Office of Workers' Compensation Programs has accepted that appellant sustained a bilateral carpal tunnel syndrome as a result of his employment with the Department of the Navy. On February 12, 1996 appellant requested payment of a schedule award. By decision dated August 9, 1996, the Office granted appellant a schedule award for a five percent permanent loss of use of the right arm.

The Board has duly reviewed the case record and concludes that the medical evidence of record does not establish that appellant has more than a five percent permanent impairment of the right arm.

The schedule award provision of the Federal Employees' Compensation Act¹ and its implementing regulations² set forth the number of weeks of compensation to be paid for permanent loss, or loss of use, of body members listed in the schedule. The Act, however, does not specify the manner in which the percentage of loss of a member shall be determined. The method for making such a determination rests in the sound discretion of the Office. The Office has adopted, and the Board has

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.304.

approved, the use of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*,³ as an appropriate standard for evaluating schedule losses.⁴

To determine the extent of permanent partial impairment of the right wrist due to the accepted employment injury, the Office referred appellant to Dr. Stephen M. Hirasuna, a Board-certified orthopedic surgeon. In a report dated May 11, 1996, Dr. Hirasuna related that appellant had right carpal tunnel syndrome, status post-endoscopic carpal tunnel release and mild left carpal tunnel syndrome by nerve conduction velocity study. Dr. Hirasuna stated that appellant's right hand was stable and ratable, but his left wrist was not stable as appellant continued to have symptoms. Regarding appellant's physical examination, Dr. Hirasuna stated that appellant had limitation of 40 degrees flexion, 50 degrees extension and a 40 degree radial and ulnar deviation, and no evidence of any sensory loss or motor weakness in his right hand to rate. Dr. Hirasuna calculated the degree of appellant's permanent impairment pursuant to the A.M.A., *Guides*, fourth edition, and found a five percent impairment of the right wrist.⁵

On June 19, 1996 the record was reviewed by Dr. Ellen Pichey, a Board-certified family practitioner. Dr. Pichey noted the accepted conditions of bilateral carpal tunnel syndrome and right release surgery. Dr. Pichey reviewed Dr. Hirasuna's physical examination findings and thereafter properly utilized the fourth edition of the A.M.A., *Guides* to calculate appellant's permanent impairment. Dr. Pichey explained that appellant had a four percent impairment due to loss of range of motion for the wrist which equated to a two percent loss of extension and a two percent loss of flexion. She further found that there was no impairment due to loss of strength and no impairment due to sensory deficit or pain. Dr. Pichey concluded that this resulted in a five percent total impairment for the right upper extremity.⁶ Dr. Pichey noted that appellant's date of maximal improvement for this right wrist was May 11, 1996. The Board has reviewed Dr. Pichey's calculation pursuant to the A.M.A., *Guides* and finds that Dr. Pichey properly calculated appellant's permanent impairment.

In support of his request for a schedule award, appellant stated that his surgery was successful but that he still suffers periodic pain and discomfort. He additionally stated that he has lost strength and stamina to his right hand due to the carpal tunnel surgery. The only medical records submitted were the May 11, 1996 medical report from Dr. Hirasuna and the June 19, 1996 medical report from Dr. Pichey. As appellant did not submit any additional

³ A.M.A., *Guides* (4th ed. 1993).

⁴ *James A. Sellers*, 43 ECAB 924 (1992).

⁵ Under the A.M.A., *Guides*, fourth edition, 40 degrees flexion equates to a 3 percent impairment and 50 degrees extension equates to a 2 percent impairment; see Figure 26, page 36. Forty degrees for radial or ulnar deviation equates to a zero percent impairment; see Figure 27, page 37.

⁶ It is noted that Dr. Pichey mistakenly wrote down a 2 percent impairment for loss of flexion as based on Dr. Hirasuna finding of a 40 degree wrist flexion, this equates to a 3 percent impairment. (Figure 26, page 36). Accordingly, using the three percent impairment value for loss of flexion, the total impairment rating equals five percent, as Dr. Pichey opined.

medical evidence that he has more than a five percent permanent impairment of the right upper extremity, the Office's schedule award was proper.⁷

The decision of the Office of Workers' Compensation Programs dated August 9, 1996 is affirmed.

Dated, Washington, D.C.
October 16, 1998

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

⁷ If at some other date a medical examination indicates that appellant's condition has worsened, an amended schedule award can then be made. *Michael C. Norman*, 42 ECAB 768 (1991).