

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOSEPH T. ASCUE and DEPARTMENT OF THE TREASURY,
FEDERAL LAW ENFORCMENT TRAINING CENTER, Glynco, GA

*Docket No. 99-1429; Submitted on the Record;
Issued December 22, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has more than a 14 percent permanent impairment to his left arm.

The Office of Workers' Compensation Programs has accepted that appellant sustained a cervical sprain and cervical radiculopathy causally related to a June 28, 1996 employment incident. By decision dated December 9, 1998, the Office issued a schedule award for a 14 percent permanent impairment to the left arm.

The Board finds that appellant has not established more than a 14 percent permanent impairment to the left arm.

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 September 10, 1998, Dr. A.C. Velasquez, a neurosurgeon serving as a second opinion physician, provided a history and results on examination.³ In a supplemental

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).

³ The Office initially referred appellant to Dr. Abed A. Koja, a neurosurgeon, who submitted a November 17, 1997 report. Dr. Koja did not respond to requests for a supplemental report addressing the relevant issues.

report dated September 25, 1998, Dr. Velasquez indicated that appellant had diminished strength in the left hand, as well as slight pain and discomfort while holding a pen in the left hand. In a report dated December 3, 1998, an Office medical adviser determined that under Table 13 of the A.M.A., *Guides*, appellant had a C6 nerve impairment of 5 percent for sensory deficit or pain and a 9 percent impairment for motor deficit, resulting in a 14 percent impairment to the left arm.⁴ The medical adviser explained that the maximum 8 percent for sensory deficit/pain was graded at 60 percent under Table 11 and the motor deficit was graded at 25 percent under Table 12.⁵

The Board finds that the Office medical adviser's report represents the weight of the medical evidence with respect to the degree of permanent impairment. The medical adviser identified the appropriate tables under the A.M.A., *Guides* and properly applied the tables, based on the findings of Dr. Velasquez, for a C6 nerve impairment affecting the left arm. There is no other probative medical evidence of record with respect to the degree of permanent impairment under the A.M.A., *Guides* causally related to the employment injury.

The schedule award in this case ran for 43.68 weeks, commencing September 10, 1998. 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 arm, the maximum number of weeks of compensation is 312 weeks. Appellant is entitled to 14 percent of 312 weeks, or 43.68 weeks of compensation. It is well established that the period covered by a schedule award commences on the date that the employee reaches maximum medical improvement from residuals of the employment injury.⁶ The date of maximum medical improvement was September 10, 1998, the date Dr. Velasquez examined appellant and opined that he had reached maximum medical improvement.

⁴ A.M.A., *Guides* (4th ed. 1993) 51, Table 13. This table provides maximum arm impairments for sensory deficit or pain, as well as motor deficit, from specific spinal nerves. The impairment is then graded according to Table 11 for sensory deficit or pain and Table 12 for motor deficit.

⁵ *Id.* at 48, Table 11 and 49, Table 12.

⁶ *Albert Valverde*, 36 ECAB 233, 237 (1984).

The decision of the Office of Workers' Compensation Programs dated December 9, 1998 is hereby affirmed.

Dated, Washington, DC
December 22, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

Michael E. Groom
Alternate Member