

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BILLY R. GREEN and DEPARTMENT OF THE ARMY,
RED RIVER ARMY DEPOT, Texarkana, TX

*Docket No. 00-121; Submitted on the Record;
Issued November 17, 2000*

DECISION and ORDER

Before DAVID S. GERSON, PRISCILLA ANNE SCHWAB,
VALERIE D. EVANS-HARRELL

The issue is whether appellant has more than a seven percent permanent impairment of his right lower extremity for which he received a schedule award.

The Board has duly reviewed the case on appeal and finds that appellant has no more than a seven percent permanent impairment of his right lower extremity.

On January 29, 1998 appellant, then a 59-year-old material handler, filed a traumatic injury claim alleging that on January 20, 1998 he injured his right knee in the performance of duty. On April 8, 1998 the Office of Workers' Compensation Programs accepted his claim for a torn medial meniscus of the right knee and authorized arthroscopic surgery. On June 18, 1998 appellant requested a schedule award and submitted medical evidence in support of his request. By decision dated August 10, 1999, the Office granted appellant a schedule award for a seven percent permanent impairment of the right lower extremity.

Under section 8107 of the Federal Employees' Compensation Act¹ and section 10.404 of the implementing federal regulations,² schedule awards are payable for permanent impairment of specified body members, functions or organs. However, neither the Act nor the regulations specify the manner in which the percentage of impairment shall be determined. For consistent results and to ensure equal justice for all claimants, the Office adopted the American Medical Association, *Guides to the Evaluation of Permanent Impairment*³ as a standard for determining the percentage of impairment and the Board has concurred in such adoption.⁴

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.404.

³ A.M.A., *Guides* (4th ed. 1993).

⁴ *Leisa D. Vassar*, 40 ECAB 1287 (1989); *Francis John Kilcoyne*, 38 ECAB 168 (1986).

In this case, the employee submitted a report dated May 11, 1998 from Dr. James E. Keever, a Board-certified orthopedic surgeon and treating physician, who performed a physical examination and correlated his findings with the A.M.A., *Guides*. He concluded that appellant had a total medial meniscectomy, performed on April 28, 1998, for a seven percent impairment,⁵ and further found that, pursuant to Table 62 of the A.M.A., *Guides*, appellant had an additional 20 percent permanent impairment due to loss of the chondral surface down to the bone, representing a 50 percent loss of the normal joint space.⁶ Dr. Keever then combined these values, as directed by the A.M.A., *Guides*, to concluded that appellant had a 20 percent permanent disability of his right lower extremity.

The Office medical adviser reviewed this report and found that appellant was not entitled to an impairment rating for loss of articular cartilage because a review of the record indicated that Dr. Keever did not properly apply Table 62 of the A.M.A., *Guides*. The Office medical adviser concluded that appellant has a seven percent impairment due to total medial meniscectomy.

The A.M.A., *Guides* specifically states that roentgenographic grading is a more objective and valid method for assigning impairment estimates secondary to arthritis than physical findings, such as the range of motion or joint crepitation. The A.M.A., *Guides* states that “the impairments related to arthritis (Table 62, page 83) are based on standard roentgenograms taken with the patient standing, if possible....”⁷ The Board has held that to determine impairment due to arthritis of a knee joint under Table 62 of the A.M.A., *Guides* a “sunrise view” x-ray must be examined as recommended by the A.M.A., *Guides*.⁸

The Office medical adviser specifically noted that Dr. Keever’s estimate of impairment due to reduced joint space was based on his arthroscopic findings, not on weight-bearing x-rays. Based on weight-bearing x-rays taken by Dr. Keever on February 23, 1998, which revealed normal joint space in the right knee, the Office medical adviser concluded that appellant had no impairment due to loss of cartilage. Therefore, as appellant has not submitted medical evidence in accordance with the A.M.A., *Guides* and Board precedent to establish that he had impairment due to joint arthritis, the Office properly found that appellant had no more than a seven percent permanent impairment of his right lower extremity.

⁵ A.M.A., *Guides* at 85, Table 64.

⁶ A.M.A., *Guides* at 83.

⁷ A.M.A., *Guides* at 82.

⁸ A.M.A., *Guides*, *id.*; *Thomas L. Iverson*, 50 ECAB ____ (Docket No. 98-446, issued August 5, 1999); *John M. Gonzales, Jr.*, 48 ECAB 357 (1997).

The August 10, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
November 17, 2000

David S. Gerson
Member

Priscilla Anne Schwab
Alternate Member

Valerie D. Evans-Harrell
Alternate Member