

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SALLY E. BRIGGS and U.S. POSTAL SERVICE,
POST OFFICE, Gulfport, MS

*Docket No. 99-2327; Submitted on the Record;
Issued October 24, 2000*

DECISION and ORDER

Before WILLIE T.C. THOMAS, A. PETER KANJORSKI,
PRISCILLA ANNE SCHWAB

The issue is whether appellant has more than a 20 percent permanent impairment to both arms.

The Office of Workers' Compensation Programs accepted that appellant sustained bilateral carpal tunnel syndrome causally related to her federal employment. By decision dated May 1, 1998, the Office issued a schedule award for a 20 percent permanent impairment in each arm. In a decision dated April 1, 1999, an Office hearing representative affirmed the schedule award decision.

The Board has reviewed the record and finds that appellant has not established more than a 20 percent permanent impairment to both arms.

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 this case, the Office referred appellant to Dr. Joseph A. Jackson, a neurologist, for evaluation. Appellant was initially seen on September 24, 1997, and then Dr. Jackson continued

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).

treatment as an attending physician. In a report dated October 10, 1997, Dr. Jackson opined that under the A.M.A., *Guides*, the maximum impairment for median nerve involvement was 44 percent, and appellant could be graded at 25 to 40 percent of the maximum. Dr. Jackson appears to be referring to Table 15 of the A.M.A., *Guides*, which provides for a maximum impairment for combined sensory and motor deficit to the median nerve of 44 percent.³ Using the 40 percent of the maximum estimated by Dr. Jackson, this would result in an impairment of between 17 and 18 percent. In his October 10, 1997 report, Dr. Jackson states that a realistic estimate would be 10 to 15 percent in each arm.⁴

In a report dated February 3, 1998, an Office medical adviser used an alternative method of determining impairment for entrapment neuropathy, which is found at Table 16.⁵ Under this table, a moderate impairment of the median nerve is a 20 percent impairment. The Board notes that this impairment is greater than that found by Dr. Jackson. In a treatment note dated February 11, 1998, Dr. Jackson reported that appellant had a 15 percent impairment in each arm.⁶ Moreover, there is no other probative medical opinion indicating a permanent impairment greater than 20 percent for each arm under the A.M.A., *Guides*. The Board accordingly finds that appellant has not established entitlement to an additional schedule award beyond the 20 percent for each arm previously awarded.

On appeal, appellant argues that her schedule award should include impairments to her hand, fingers, wrist, elbow and shoulder. The Act does not identify the wrist, elbow, or shoulder under the schedule award provisions and with respect to hand and fingers, the median nerve entrapment and neuropathy impairment to the arm include any impairment to the hand or fingers.⁷ Appellant also discusses wage-earning capacity, which is not before the Board on this appeal.

³ A.M.A., *Guides* at 54.

⁴ In a form report dated December 11, 1997, Dr. Jackson reported a 17 percent impairment for both sensory and motor deficits. As noted above, Table 15 combines both impairments in providing a 44 percent maximum; the maximum impairment for motor deficit alone is 10 percent. Dr. Jackson may have been revising his earlier estimate of 10 to 15 percent to 17 percent.

⁵ A.M.A., *Guides* at 57.

⁶ Dr. Jackson concludes that appellant had a 28 percent bilateral impairment, which apparently represents the combining of the 15 percent impairment for each arm under the Combined Values Chart. A.M.A., *Guides* at 322. Under the Act, each arm impairment is considered separately; there is no provision for a bilateral arm impairment. 5 U.S.C. § 8107(c)(1).

⁷ 5 U.S.C. § 8107.

The decision of the Office of Workers' Compensation Programs dated April 1, 1999 is affirmed.

Dated, Washington, DC
October 24, 2000

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member

Priscilla Anne Schwab
Alternate Member