

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARK A. DEGOURVILLE and U.S. POSTAL SERVICE,
POST OFFICE, Denver, CO

*Docket No. 99-2440; Submitted on the Record;
Issued September 20, 2000*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
PRISCILLA ANNE SCHWAB

The issue is whether appellant has greater than a four percent permanent loss of use of the right arm.

The Office of Workers' Compensation Programs accepted that appellant sustained a right lateral epicondylitis on June 26, 1998 by pulling a tray of mail. Appellant was released for modified work following his injury.

On February 10, 1999 appellant filed a claim for a schedule award. In a January 26, 1999 report, Dr. Albert Hattem, appellant's family practitioner, examined appellant and stated that appellant was now at maximum medical improvement. He then rendered an impairment rating based on the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, Third Edition (Revised) as appellant has an impairment due to abnormal right elbow motion.

Right elbow flexion was measured at 120 degrees and extension at 10 degrees. According to Figure 32 on page 32 of the A.M.A., *Guides*, flexion corresponds to a 2 percent upper extremity rating while extension corresponds to a 1 percent upper extremity rating. Pronation was measured at 70 degrees and supination at 80 degrees. According to Figure 34 on page 33 of the A.M.A., *Guides*, pronation corresponds to a 1 percent impairment and supination corresponds to a 0 percent upper extremity impairment. Dr. Hattem totaled the impairments and found that appellant had a four percent upper extremity impairment.

On March 2, 1999 an Office medical adviser reviewed the medical evidence of record and applied the tables of the A.M.A., *Guides* (4th ed.) to the findings reported by Dr. Hattem. The Office medical adviser stated that the date of maximum medical improvement was January 26, 1999 and that, in determining the right upper extremity impairment, "values for [range of motion] at elbow are the same in all editions of the A.M.A., *Guides*." The Office

medical adviser thus concurred with Dr. Hattem's evaluations and stated that the total impairment for the right upper extremity equaled four percent.

By decision dated April 27, 1999, the Office issued appellant a schedule award for a four percent permanent loss of use of his right arm for the period January 26 to April 23, 1999.

The Board finds that the medical evidence establishes that appellant has no more than a four percent permanent impairment to his right 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 A.M.A., *Guides* as the uniform standard applicable to all claimants.²

The Board finds that the Office properly relied on its medical adviser in rendering a four percent permanent impairment rating to appellant's right arm commencing January 26, 1999.

Appellant argues on appeal that, under his schedule award, he should have been paid from June 28, 1998, the date of his initial work injury, until January 25, 1999 and that the physicians should have used more up-to-date A.M.A., *Guides* to rate his impairment. Appellant is entitled to a schedule award only on the date he reaches maximum medical improvement. Inasmuch as Dr. Hattem stated that appellant reached maximum medical improvement on the date of his January 26, 1999 report, the Office medical adviser correctly noted that the date of maximum medical improvement was January 26, 1999. Accordingly, the date of January 26, 1999 is the proper date on which to start the commencement of the schedule award.

Furthermore, the Office medical adviser correctly noted that the values for range of motion at the elbow are the same in all editions of the A.M.A., *Guides*. Utilizing Figure 32, page 40 of the A.M.A., *Guides*,³ the medical adviser used Dr. Hattem's measurement of right elbow flexion of 120 degrees to equate to a 2 percent rating and Dr. Hattem's measurement of right elbow extension of 10 degrees to equate to a 1 percent rating. Utilizing Figure 35, page 41 of the A.M.A., *Guides*,⁴ Dr. Hattem's measurement of right elbow pronation of 70 degrees and supination of 80 degrees corresponds to 1 percent impairment and a 0 percent impairment, respectively. Accordingly, the total impairment rating for appellant's right arm is four percent under the current edition of the A.M.A., *Guides*.

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 listed at 20 C.F.R. § 10.304(b).

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

³ A.M.A., *Guides* (4th ed. 1993), 40, Figure 32.

⁴ A.M.A., *Guides* (4th ed. 1993), 41, Figure 35.

As the medical adviser's rating is in accord with Dr. Hattem's opinion and there is no other evidence supporting a greater impairment rating, the medical evidence establishes that appellant has no more than a four percent right upper extremity impairment.

The April 27, 1999 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
September 20, 2000

David S. Gerson
Member

Willie T.C. Thomas
Member

Priscilla Anne Schwab
Alternate Member