

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of PATRICIA A. BLANKENSHIP and DEPARTMENT OF THE NAVY,  
CAMP LEJEUNE SATELLITE OFFICE, Camp LeJeune, NC

*Docket No. 01-947; Submitted on the Record;  
Issued November 28, 2001*

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DECISION and ORDER

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

The issue is whether appellant has greater than a 15 percent permanent impairment of her right upper extremity and a 12 percent permanent impairment of her left upper extremity, for which she has received schedule awards.

The Office of Workers' Compensation Programs accepted that appellant, a 56-year-old purchasing agent, sustained bilateral carpal tunnel syndrome (CTS) in the performance of her duties. Appellant underwent a right carpal tunnel release on August 4, 1998 and a left carpal tunnel release on June 30, 1999. She returned to full duty on September 1, 1999. Thereafter she requested a schedule award for residual permanent impairment of her upper extremities.

By report dated July 16, 1999, appellant's treating physician, Dr. Robert E. Abraham, a Board-certified neurosurgeon, opined that appellant had a 15 percent permanent impairment of the whole body, which reduced to a 25 percent impairment of her right upper extremity. He reviewed the fourth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*) but noted that it was too soon postoperatively to rate the impairment of appellant's left upper extremity. Appellant had minimal residual motor and sensory abnormalities in the right hand, which was functioning at an acceptable level.

On November 9, 1999 the Office requested that an Office medical adviser review Dr. Abraham's report and indicate whether he agreed with that determination of a 25 percent impairment of the right upper extremity. The Office medical adviser noted in response: "Minimal residual symptoms of r[ight] after CTS surgery, median nerve wrist, [permanent partial impairment] [right upper extremity] = 10 percent, Table 16, page 3/57, [date of maximum medical improvement] July 16, 1999."

On December 1, 1999 the Office determined that a conflict had been created between Dr. Abraham and the Office medical adviser on the degree of right upper extremity permanent impairment and referred appellant, together with a statement of accepted facts and the relevant case record, to Dr. William P. Parker, Jr., a Board-certified neurosurgeon, for resolution.

By report dated December 21, 1999, Dr. Parker presented his findings upon physical examination, noting that appellant had bilateral well-healed scars and a little erythema around the upper end of the left-sided incision. Dr. Parker noted mild atrophy of the right thenar eminence and the inability to oppose the right thumb and fifth finger by about 2.5 centimeters. He found that pinching with the thumb and fifth finger was somewhat weak on the right side, but that pinching with the thumb and index finger was strong, as was grip strength. Dr. Parker noted that appellant had very mild hypalgesia and hypesthesia primarily on the palmar surface of the right index finger. Dr. Parker noted that appellant had discomfort on passive flexion and extension of the right wrist but had full range of motion. He stated that there was no thenar atrophy on the left and that appellant lacked about one centimeter of opposing thumb and fifth finger. Dr. Parker found that her pinch strength was normal in the left hand both with the index finger and the fifth finger, with minimal hypalgesia over the palmar surface of the left index finger and with good grip strength. He opined that appellant had a 15 percent impairment of her right upper extremity and a 12 percent permanent impairment of the left. Dr. Parker arrived at these figures by using Table 11, page 48 and Table 12, page 49 of the A.M.A., *Guides*, 4<sup>th</sup> edition to determined sensory and motor impairment. He noted that these percentages were then applied to the figures in Table 15, page 54 to arrive at final figures.

By report dated December 30, 1999, Dr. Abraham opined that appellant had a 5 percent whole body permanent impairment with regard to her left hand, which translated to a 15 percent impairment of her left upper extremity.

On January 25, 2000 the Office granted appellant schedule awards for a 15 percent permanent impairment of the right arm and a 12 percent permanent impairment of the left arm, for the period September 1, 1999 to April 13, 2001, for a total of 84.24 weeks of compensation.

The Board finds that appellant has no greater than a 15 percent permanent impairment of her right upper extremity and a 12 percent permanent impairment of her left upper extremity, for which she has received schedule awards.

Impairment due to CTS may be evaluated by two separate methods under the fourth edition of the A.M.A., *Guides*: a diagnostic-based estimate under Table 16, "Upper Extremity Impairment Due to Entrapment Neuropathy," or the alternate method of grading the nerve root impairment by identifying the nerve and evaluating the degree of pain and loss of strength using Tables 11, 12 and 15 as appropriate.<sup>1</sup>

In the present case, appellant's physician Dr. Abraham began with a whole body impairment and worked backwards to ascertain a discreet upper extremity impairment. This is not one of the approved methods of calculating permanent impairment for CTS. Moreover, the Board has frequently explained that a schedule award is not payable for the loss, or loss of use, of a part of the body that is not specifically enumerated under the Federal Employees' Compensation Act<sup>2</sup> or under its implementing regulations.<sup>3</sup> Neither the Act nor its implementing

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<sup>1</sup> Michael D. Nielsen, 49 ECAB 453 (1998).

<sup>2</sup> 5 U.S.C. § 8107(c).

<sup>3</sup> 20 C.F.R. § 10.404(a).

federal regulations provides for a schedule award for impairment to the back or to the body as a whole.<sup>4</sup> As Dr. Abraham derived both his right and left upper extremity impairment ratings from a whole body impairment such ratings are of reduced probative value. Moreover, Dr. Abraham did not cite to the tables or figures he relied upon from the A.M.A., *Guides* and so his impairment ratings are not rationalized as well.

Dr. Parker, however, utilized one of the approved methods for calculating permanent impairment due to CTS and, after identifying the specific tables upon which he relied, calculated that appellant had no greater than a 15 percent permanent impairment of her right upper extremity and a 12 percent permanent impairment of her left upper extremity.

As Dr. Parker correctly followed the accepted procedures in determining schedule awards for bilateral CTS, his opinion constitutes the weight of the medical opinion evidence.<sup>5</sup>

As appellant has presented no further rationalized medical evidence following established procedures in calculating bilateral schedule awards due to CTS, the weight of the evidence rests with Dr. Parker.

Accordingly, the January 25, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC  
November 28, 2001

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Member

Michael E. Groom  
Alternate Member

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<sup>4</sup> See *Terry E. Mills*, 47 ECAB 309 (1996); *James E. Mills*, 43 ECAB 215 (1991).

<sup>5</sup> The Board notes that the Office medical adviser also used a correct method in calculating permanent impairment due to CTS, however, it was the alternate method from that chosen by Dr. Parker.