

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of REGINALD E. PEGGINS and DEPARTMENT OF THE ARMY,
WINN ARMY COMMUNITY HOSPITAL, Fort Stewart, GA

*Docket No. 02-691; Submitted on the Record;
Issued July 18, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

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

The Office of Workers' Compensation Programs accepted that appellant, a material handler/forklift operator, sustained right knee injuries while in the performance of duty on June 23, 1993, which resulted in a right knee and ligament strain.¹ The Office also accepted appellant's March 8, 1994 and May 21, 1999 recurrence claims. Appellant underwent arthroscopic surgeries in 1995 and 1999, which were authorized by the Office.

On May 11, 2001 appellant filed a claim for a schedule award. In a May 11, 2001 report, Dr. Spencer M. Wheeler, an attending Board-certified orthopedic surgeon, concluded that appellant had a 12 percent impairment of the right lower extremity.

In a report dated May 24, 2001, the Office medical adviser reviewed Dr. Wheeler's report and concluded that appellant had a two percent impairment of the right lower extremity pursuant to Table 17-33 of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (5th ed.).

Dr. Wheeler, in a July 3, 2001 report, concluded that appellant had a 10 percent impairment of the right lower extremity. In reaching this conclusion, he noted appellant had 110 degrees of flexion and 0 degrees of extension in his right knee and estimated an 8 percent impairment due to pain, weakness, atrophy or discomfort.

In a report dated August 17, 2001, the Office medical adviser reviewed Dr. Wheeler's July 3, 2001 report and concluded that appellant had a two percent impairment of the right lower extremity. In support of this conclusion, the Office medical adviser referred to Table 17-33 of

¹ The Office also accepted that appellant twisted his right ankle on May 3, 1996 while in the performance of duty.

the A.M.A., *Guides* (5th ed.) and appellant's partial meniscectomy. He also noted that "no other impairment has been documented."

In a December 17, 2001 report, Dr. Douglas P. Hein, a second opinion Board-certified orthopedic surgeon, concluded that appellant had a two percent impairment due to his partial meniscectomy and the A.M.A., *Guides* (5th ed.). The physician noted appellant had two arthroscopic surgeries with the second surgery resulting in "removal of a posterior 1/3 tear of the medial meniscus." A physical examination revealed a range of motion of 0-135, a normal gait in his brace and no significant crepitus and no effusion.

By decision dated January 16, 2002, the Office awarded a two percent impairment of his right knee.

The Board finds that appellant has not established that he has more than a two percent impairment of the right lower extremity.

Section 8107 of the Federal Employees' Compensation Act² provides that, if there is permanent disability involving the loss or loss of use of a specific enumerated member or function of the body, the claimant is entitled to a schedule award for the permanent impairment of the scheduled member or function.³ The Act does not specify the manner by 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.⁴

The Office medical adviser calculated a two percent impairment due to a partial meniscectomy in accordance with Table 17-33 of the A.M.A., *Guides* (5th ed.). He noted there was no evidence appellant had any other impairment. Inasmuch as the Office medical adviser's calculation of appellant's right lower extremity impairment conforms to the A.M.A., *Guides* (5th ed. 1993), his finding constitutes the weight of the medical evidence.⁵

The Board has held that evidence from an Office medical adviser, which is the only medical evidence of record conforming to the A.M.A., *Guides*, can constitute the weight of the medical evidence.⁶ Neither of Dr. Wheeler's reports provided a sufficiently detailed description

² 5 U.S.C. §§ 8101-8193; § 8107.

³ *Id.* 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. § 10.404(a).

⁴ *Mary L. Henninger*, 51 ECAB ____ (Docket No. 00-552, issued June 20, 2001); 20 C.F.R. § 10.404 (1999). The Office first utilized *A Guide to the Evaluation of Permanent Impairment of the Extremities and Back*, published in The Journal of the American Medical Association, Special Edition, February 15, 1958. From 1958 until 1971 a series of 13 *Guides* was published in the Journal of the American Medical Association. The American Medical Association published the first hardbound compilation edition of the A.M.A., *Guides* in 1971, which revised the previous series of JAMA *Guides*.

⁵ See *Bobby L. Jackson*, 40 ECAB 593, 601 (1989).

⁶ *Lela M. Shaw*, 51 ECAB ____ (Docket No. 98-1587, issued March 15, 2000); *Marco A. Padilla*, 51 ECAB ____ (Docket No. 98-1296, issued December 6, 1999).

of appellant's impairment and therefore, was of limited probative value in determining the extent of appellant's impairment under the A.M.A., *Guides*.⁷ Dr. Wheeler's May 11 and July 3, 2001 reports are of limited probative value as the physician failed to explain how the impairment was calculated in conformance with the A.M.A., *Guides* in either of his reports.⁸

The January 16, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
July 18, 2002

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

⁷ *Noe L. Flores*, 49 ECAB 344, 347 (1998).

⁸ *Paul R. Evans Jr.*, 44 ECAB 646, 651 (1993).