

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JAMES E. ELLIS and U.S. GOVERNMENT

*Docket No. 01-1849; Submitted on the Record;  
Issued September 5, 2002*

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DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
WILLIE T.C. THOMAS

The issue is whether appellant has greater than a six percent permanent impairment of the right hand for which he received a schedule award.

On August 30, 2000 appellant, then a 55-year-old air conditioning equipment mechanic, sustained a traumatic injury in the performance of duty when he was preparing to install an air conditioning unit and a window fell, severing the tip of his right ring finger. Appellant was sent to the Fort Walton Beach Medical Center and underwent reconstructive/plastic surgery. The Office of Workers' Compensation Programs accepted the claim for right ring finger tip amputation and appellant received compensation for wage loss from August 30 until September 11, 2000, when he returned to limited duty. Appellant was approved for full duty by his treating physician, Dr. Harrison B. Keller, a Board-certified plastic surgeon, effective September 25, 2000.

By letter dated October 23, 2000, the Office requested that Dr. Keller examine appellant to ascertain the extent of his permanent partial impairment of the finger tip amputation due to the work injury in accordance with the fourth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*). The Office provided Dr. Keller with a form to complete indicating the date of maximum medical improvement and the average range of flexion and extension range of motion for the "DIP [distal interphalangeal]" and "PIP [proximal interphalangeal]" joints.

Dr. Keller subsequently completed the form and found that appellant retained 45 degrees of flexion at the DIP joint of the right ring finger and 90 degrees of flexion at the PIP joint of the right ring finger. He listed flexion impairment at the DIP as [15] percent and PIP as [6] percent with [30] percent impairment for amputation at the tip of the right ring finger. He stated that appellant had a total of [51] percent impairment of the right ring finger, [5] percent impairment of the hand and upper extremity, and [3] percent whole person impairment.

In a memorandum dated February 12, 2001, the district medical adviser noted the date of maximum medical improvement was October 27, 2000. Under impairment rating comments, the

district medical adviser indicated that the Office had accepted the case for a fourth ring finger tip amputation. He noted that appellant's treating physician suggested a five percent permanent impairment rating. The district medical adviser indicated that a 30 percent amputation equaled 6 percent permanent impairment of the hand under "[T]able 16-17" of the fifth edition of the A.M.A., *Guides*.<sup>1</sup>

On May 3, 2001 the Office issued appellant a schedule award for a six percent loss of the use of the right hand. The period of the award was listed as October 27, 2000 to February 6, 2001.

The Board finds that the case is not in posture for a decision.

The schedule award provisions of the Federal Employees' Compensation Act<sup>2</sup> and its implementing federal regulation,<sup>3</sup> set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss or loss of use of specified members, functions or organs of the body. Where the loss of use is less than 100 percent, the amount of compensation is paid in proportion to the percentage loss of use.<sup>4</sup> However, the Act does not specify the manner in which the percentage of loss shall be determined. For consistent results and to ensure equal justice under the law to all claimants, good administrative practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants. The A.M.A., *Guides* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.<sup>5</sup>

The A.M.A., *Guides* were prepared to establish reference tables and evaluation protocols which, if followed, may allow the clinical findings of the physician to be compared directly with the impairment criteria and related to impairment percentages. While the medical opinion of the treating physician may be accorded some weight, his or her clinical data can be readily extrapolated and evaluated within the tables and guidelines presented.<sup>6</sup>

In this case, appellant's treating physician opined that he had five percent impairment of the right hand due to the amputation of the finger tip of the right ring finger causally related to appellant's work injury. Dr. Keller, however, did not reference his impairment rating to pages, figures or tables of the A.M.A., *Guides* as requested by the Office.

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<sup>1</sup> The fifth edition of the A.M.A., *Guides* became effective February 1, 2001 and must be used to evaluate impairment ratings after that date.

<sup>2</sup> 5 U.S.C. § 8107.

<sup>3</sup> 20 C.F.R. § 10.404 (1999).

<sup>4</sup> 5 U.S.C. § 8107(c)(19).

<sup>5</sup> See 20 C.F.R. § 10.404 (1999).

<sup>6</sup> Michael D. Nielsen, 49 ECAB 453 (1998).

the impairment criteria and related to impairment percentages. While the medical opinion of the treating physician may be accorded some weight, his or her clinical data can be readily extrapolated and evaluated within the tables and guidelines presented.<sup>7</sup> Since appellant's treating physician did not make any reference to the A.M.A., *Guides* the Office properly forwarded his clinical findings to the district medical adviser for calculation of appellant's impairment rating. The district medical adviser opined that appellant had a six percent impairment of the right hand.

The Board, however, does not find the record to be sufficient to calculate the propriety of the Office's schedule award since the district medical adviser did not properly reference the A.M.A., *Guides* in finding that appellant had a six percent impairment. The district medical adviser cited to "[T]able 16-17" but this table does not pertain to digit impairment percentages for the fingers due to amputation. The only table listed as "16-17" in the fifth edition of the A.M.A., *Guides* pertains to impairment of the upper extremity due to peripheral vascular disease and, without further explanation, does not appear to be relevant.<sup>8</sup> The Board therefore remands this case for clarification by the Office as to the basis under the A.M.A., *Guides* for the award issued to appellant for six percent permanent impairment of the right hand. After such further review and medical development as deemed necessary, the Office is directed to issue a *de novo* decision to protect appellant's appeal rights.

The decision of the Office of Workers' Compensation Programs dated May 3, 2000 is hereby vacated and the case is remanded for further consideration consistent with this opinion.

Dated, Washington, DC  
September 5, 2002

Michael J. Walsh  
Chairman

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member

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<sup>7</sup> *Id.*

<sup>8</sup> The relevant section of the fifth edition of the A.M.A., *Guides* is 16.2 entitled "*Amputations*."