

On October 19, 1998 appellant, a 53-year-old custodian, filed an occupational disease claim alleging that on August 8, 1998 he first realized his right shoulder condition was

employment related. The Office accepted the claim for right shoulder impingement. On July 28, 2003 appellant filed a claim for a schedule award.

In a report dated August 20, 2003, Dr. Veerinder S. Anand, a treating Board-certified orthopedic surgeon, diagnosed right shoulder impingement syndrome. A physical examination of the right upper extremity revealed 170 degrees forward flexion, 40 degrees hyperextension, 40 degrees adduction, 170 degrees abduction, 80 degrees external rotation and 40 degrees internal rotation. Dr. Anand also reported that appellant complained of right shoulder pain when pulling, pushing and reaching above the shoulder. He reported no dysesthesia or hyperesthesia. Dr. Anand opined that appellant had a slight to moderate pain “on a scale of 1 to 10” with him describing “his pain level at 5 to 6.”

On February 14, 2004 Dr. Leonard A. Simpson, an Office medical adviser, reviewed Dr. Anand’s report and applied the fifth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* to determine that appellant had a five percent impairment of the right upper extremity. Using Table 16-10 at page 482, he determined that appellant had a 60 percent grade due to his pain and multiplied this by a 5 percent impairment allowed for the axillary nerve, Table 16-13 at page 489, totaling a 3 percent impairment due to pain. With regard to range of motion, Dr. Simpson found:

“Range of motion documented of 170/180 would be assessed a[t] 1 percent impairment. Extension of 40/50 would be assessed a[t] 1 percent impairment. Abduction of 170/170 would be assessed 0. Adduction of 40/40 would be assessed 0. Internal rotation described as full would be assessed 0. External rotation described as full would be assessed 0. Grip strength measurement revealed that the dominant hand was slightly stronger than the left, but diminished if one considers the dominant hand to be 10 percent stronger. However, differences were much less than 10 percent, which would be rated as 0 per Table 16-34, as far as grip strength differences. There was no measurable atrophy comparing the right and left extremities and this would also be rated zero.”

Dr. Simpson applied the Combined Values Chart on page 604 to the three percent impairment for pain combined with the two percent impairment for loss of range of motion to a five percent impairment for the right upper extremity. He concluded that appellant reached maximum medical improvement by the August 20, 2003 evaluation.

By decision dated July 7, 2004, the Office granted appellant a schedule award for 15.60 weeks of compensation based on a five percent impairment of the right upper extremity, for the period August 20 to December 7, 2003.¹

¹ Subsequent to the July 7, 2004 decision appellant filed a claim for a schedule award on October 13, 2004.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act² and its implementing regulation³ set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss or loss of use, of scheduled members or functions of the body. 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.⁴

ANALYSIS

The Board finds that the Office medical adviser properly applied the A.M.A., *Guides* to the impairment values provided by Dr. Anand in an August 20, 2003 report. Regarding appellant's right shoulder, Dr. Simpson found that 170 degrees of forward flexion represents a one percent impairment and that 40 degrees extension represents a one percent impairment.⁵ The medical adviser advised that 170 degrees of abduction equates to zero percent impairment and 40 degrees of adduction represents a zero percent impairment.⁶ Internal rotation was zero and external rotation, were both diagnosed as full, representing a zero percent impairment. The total impairment due to loss of range of motion was two percent. He then applied Table 16-10⁷ to find a Grade 3 or 60 percent impairment for pain which he then applied to Table 16-15,⁸ which rates the maximum impairment based on the axillary nerve as 5 percent. He multiplied the 5 percent by 60 percent to find a 3 percent impairment. Dr. Simpson applied the Combined Values Chart on page 604 to correctly determine that appellant had a total of five percent impairment to his right shoulder due to impairment from pain and loss of range of motion. There is no medical evidence establishing greater impairment.

CONCLUSION

Appellant has not established that he has more than a five percent impairment of the right upper extremity.

² 5 U.S.C. § 8107.

³ 20 C.F.R. § 10.404.

⁴ See *Jacqueline S. Harris*, 54 ECAB ____ (Docket No. 02-203, issued October 4, 2002).

⁵ A.M.A., *Guides*, Figure 16-40, page 476.

⁶ A.M.A., *Guides*, Figure 16-43, page 477.

⁷ A.M.A., *Guides*, Table 16-10, page 482.

⁸ A.M.A., *Guides*, Table 16-15, page 492.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated July 7, 2004 is affirmed.

Issued: April 12, 2005
Washington, DC

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member