



him off work pending surgery. On June 8, 2004 Dr. Ladwig performed reconstruction of the anterior cruciate ligament and a partial medial meniscectomy of the right knee, authorized by the Office. Appellant received compensation on the daily rolls beginning June 17, 2004 and on the periodic rolls beginning July 11, 2004.

Dr. Ladwig submitted periodic progress reports from June 8 to July 15, 2004 holding appellant off work.<sup>1</sup> He released appellant to sedentary duty on August 19, 2004. Appellant then returned to work in a limited-duty capacity. Dr. Ladwig lessened appellant's restrictions in October and November 2004 to allow running stairs and lifting patients in and out of ambulances.

In a December 22, 2004 report, Dr. Ladwig opined that appellant had reached maximum medical improvement with "really no complaints of any instability about his knee. At times, he ha[d] a stiff, achy feeling, although that [was] very slight." Dr. Ladwig also noted "an excellent range of motion and improving strength." He released appellant from care, stating that no permanent work restrictions would be required. Dr. Ladwig opined that appellant had a seven percent permanent impairment of the right knee "secondary to ACL [anterior cruciate ligament] tear requiring reconstruction as well as the partial meniscectomy." He released appellant to full duty on December 23, 2004.

On March 4, 2005 the Office referred Dr. Ladwig's December 22, 2004 report to an Office medical adviser for calculation of the appropriate percentage of permanent impairment according to the fifth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (hereinafter, A.M.A., *Guides*).<sup>2</sup> In a March 7, 2005 report, the Office medical adviser reviewed Dr. Ladwig's report and concurred that appellant had reached maximum medical improvement as of December 22, 2004. As appellant had no pain, swelling or instability in the right knee, the Office medical adviser recommended a two percent impairment of the right lower extremity "for a partial medial meniscectomy according to Table 17-33, p[age] 546 of the A.M.A., *Guides*,"<sup>3</sup> Fifth edition. He stated that as there was "no instability in the knee, no additional PPI [permanent partial impairment] [was] awarded for the ACL [anterior cruciate ligament] reconstruction."

By decision dated April 8, 2005, the Office awarded appellant a schedule award for a two percent impairment of the right lower extremity, based on the Office medical adviser's review of Dr. Ladwig's December 22, 2004 report. The period of the award ran from December 22, 2004 to January 31, 2005.

---

<sup>1</sup> Appellant received medical management services from an Office field nurse from July 2004 to January 2005.

<sup>2</sup> It appears from the record that the Office developed the schedule award issue on its own initiative as there is no schedule award claim of record from appellant.

<sup>3</sup> Table 17-133, p. 546 of the A.M.A., *Guides*, (5<sup>th</sup> ed. 2001) is entitled "Impairment Estimates for Certain Lower Extremity Impairments." According to Table 17-33, a partial medial meniscectomy is equivalent to a two percent impairment of the lower extremity. Additional percentages of impairment are awarded for laxity of the cruciate or collateral ligaments.

## LEGAL PRECEDENT

An employee seeking compensation under the Federal Employees' Compensation Act<sup>4</sup> has the burden of establishing the essential elements of his claim by the weight of the reliable, probative and substantial evidence.<sup>5</sup>

The schedule award provision of the Act<sup>6</sup> and its implementing regulation<sup>7</sup> 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.<sup>8</sup>

For lower extremity impairments due to meniscectomies or ligament injuries involving the knees, Table 17-1, page 525 of the A.M.A., *Guides*<sup>9</sup> directs the clinician to utilize section 17.2j, beginning at page 545,<sup>10</sup> as the appropriate method of impairment assessment. Section 17.2j, entitled "Diagnosis-Based Estimates," instructs the clinician to assess the impairment using the criteria in Table 17-33 at page 546, entitled "Impairment Estimates for Certain Lower Extremity Impairments."<sup>11</sup> According to Table 17-33, a partial medial meniscectomy is equivalent to a 2 percent impairment of the lower extremity.<sup>12</sup> Additional percentages of impairment are awarded for laxity of the cruciate or collateral ligaments.<sup>13</sup>

## ANALYSIS

The Office accepted that appellant sustained an aggravation of a preexisting tear of the anterior cruciate ligament of the right knee and a torn right medial meniscus. Dr. Ladwig, an attending Board-certified orthopedic surgeon, opined that appellant had reached maximum medical improvement as of December 22, 2004. He opined that appellant sustained a seven

---

<sup>4</sup> 5 U.S.C. §§ 8101-8193.

<sup>5</sup> *Donna L. Miller*, 40 ECAB 492, 494 (1989); *Nathaniel Milton*, 37 ECAB 712, 722 (1986).

<sup>6</sup> 5 U.S.C. § 8107.

<sup>7</sup> 20 C.F.R. § 10.404 (2003).

<sup>8</sup> *See id.*; *James Kennedy, Jr.*, 40 ECAB 620, 626 (1989); *Charles Dionne*, 38 ECAB 306, 308 (1986).

<sup>9</sup> A.M.A., *Guides* (5<sup>th</sup> ed. 2001) 525, Table 17-1.

<sup>10</sup> *Id.* at 545.

<sup>11</sup> A.M.A., *Guides* (5<sup>th</sup> ed. 2001) 546, Table 17-33.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

percent permanent impairment of the right lower extremity due to the anterior cruciate ligament tear and reconstruction and the partial medial meniscectomy. However, Dr. Ladwig did not refer to the A.M.A., *Guides* in explaining how he arrived at the seven percent impairment rating. Therefore, his opinion regarding the percentage of permanent impairment is of diminished probative value.<sup>14</sup>

The Office then referred Dr. Ladwig's report to an Office medical adviser for review. In a March 7, 2005 report, the Office medical adviser reviewed Dr. Ladwig's December 22, 2004 report, noting that appellant did not complain of pain and that the right knee exhibited no laxity, instability or restricted motion. Referring to Table 17-33 of the A.M.A., *Guides*, the Office medical adviser found that status post partial medial meniscectomy with no ligamentous laxity equaled a two percent impairment of the lower extremity. The Board finds that the Office medical adviser used the appropriate portions of the A.M.A., *Guides* to determine that appellant had a two percent impairment of the right lower extremity due to the accepted right knee injury. Also, the medical adviser provided sufficient rationale to explain why there were no findings justifying a greater impairment rating, such as instability in the knee.

Thus, the Board finds that the Office medical adviser's opinion is sufficient to represent the weight of the medical evidence in this case, as it is sufficiently rationalized and based upon the appropriate criteria as set forth in the A.M.A., *Guides*.<sup>15</sup>

### **CONCLUSION**

The Board finds that appellant has not established that he sustained greater than a two percent impairment of the right lower extremity, for which he received a schedule award.

---

<sup>14</sup> *Norman D. Armstrong*, 55 ECAB \_\_\_\_ (Docket No. 04-306, issued June 23, 2004).

<sup>15</sup> *See Bobby L. Jackson*, 40 ECAB 593, 601 (1989).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated April 6, 2005 is affirmed.

Issued: November 22, 2005  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Willie T.C. Thomas, Alternate Judge  
Employees' Compensation Appeals Board