

In a report dated June 9, 2004, the attending orthopedic surgeon, Dr. Brian Stennett, noted that appellant had undergone a partial medial and lateral meniscectomy and that appellant also had degenerative arthritis of the left knee. He stated that appellant had reached maximum medical improvement and had a 22 percent permanent impairment to his left leg: "This is based on the fact that he underwent a surgical arthroscopy of his knee with partial medial and lateral meniscectomies. This is calculated through the use of Table 64."

An Office medical adviser reviewed the medical evidence and in a report dated October 27, 2004, opined that appellant had a 10 percent permanent impairment to the left leg. He identified Table 17-33 of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* and reported that a partial medial and lateral meniscectomy was a 10 percent leg impairment.

By decision dated November 22, 2004, the Office issued a schedule award for a 10 percent impairment to the left leg. The period of the award was 28.80 weeks from June 9, 2004.

Appellant requested a review of the written record and argued that a conflict existed between Dr. Sennett and the Office medical adviser. In a decision dated September 26, 2005, the hearing representative affirmed the November 22, 2004 decision.

LEGAL PRECEDENT

Under section 8107 of the Federal Employees' Compensation Act¹ and section 10.404 of the implementing federal regulation,² schedule awards are payable for permanent impairment of specified body members, functions or organs. The Act, however, does not specify the manner in which the percentage of impairment shall be determined. For consistent results and to ensure equal justice under the law for 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 Office, and the Board has concurred in such adoption, as an appropriate standard for evaluating schedule losses.³ As of February 1, 2001, the fifth edition of the A.M.A., *Guides* was to be used to calculate schedule awards.⁴

ANALYSIS

In the present case, the November 22, 2004 schedule award was based on the opinion of the Office medical adviser, who applied Table 17-33 of the A.M.A., *Guides*. Under Table 17-33, a partial medial and lateral meniscectomy represents a 10 percent leg impairment.⁵ Appellant

¹ 5 U.S.C. §§ 8101-8193.

² 20 C.F.R. § 10.404.

³ *James J. Hjort*, 45 ECAB 595 (1994); *Leisa D. Vassar*, 40 ECAB 1287 (1989); *Francis John Kilcoyne*, 38 ECAB 168 (1986).

⁴ FECA Bulletin No. 01-05 (issued January 29, 2001).

⁵ A.M.A., *Guides* 546, Table 17-33.

argues that there is a conflict in the medical evidence, as Dr. Sennett opined that appellant had a 22 percent leg impairment. The opinion of Dr. Sennett is of diminished probative value, however, as he did provide a reasoned opinion based on the fifth edition of the A.M.A., *Guides*. He referred generally to Table 64, which is a table from the fourth edition of the A.M.A., *Guides*. The Board notes that, under Table 64, as well as Table 17-33 of the fifth edition, a 22 percent impairment is for a total medial and lateral meniscectomy.⁶ The June 9, 2004 report from Dr. Sennett and the September 25, 2003 operative report note that the surgical procedure was for a partial medial and lateral meniscectomy. The probative medical evidence of record rests with the Office medical adviser in this case. There is no probative medical evidence that appellant has more than a 10 percent left leg impairment.

The Board notes that the number of weeks of compensation for a schedule award is determined by the compensation schedule at 5 U.S.C. § 8107(c). For complete loss of use of the leg, the maximum number of weeks of compensation is 288 weeks. Since appellant's permanent impairment was 10 percent, he is entitled to 10 percent of 288 weeks, or 28.8 weeks of compensation. It is well established that the period covered by a schedule award commences on the date that the employee reaches maximum medical improvement from residuals of the employment injury.⁷ In this case, Dr. Sennett indicated that appellant reached maximum medical improvement in his June 9, 2004 report, and therefore the award ran for 28.80 weeks commencing on June 9, 2004.

CONCLUSION

The Board finds that the medical evidence does not establish more than a 10 percent permanent impairment to the left leg.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated September 26, 2005 and November 22, 2004 are affirmed.

Issued: February 2, 2006
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

⁶ *Id.*; Table 64 (4th ed. 1993) page 85.

⁷ *Albert Valverde*, 36 ECAB 233, 237 (1984).